

HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 99-AFC-7
PASTORIA ENERGY FACILITY)
(ENRON NORTH AMERICA CORP.))
)

ROOM A
BAKERSFIELD TAXPAYER SERVICE CENTER
1800 30TH STREET
BAKERSFIELD, CALIFORNIA

MONDAY, SEPTEMBER 18, 2000

9:07 A.M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Presiding Member

Michal Moore, Associate Member

STAFF PRESENT

Susan Gefter, Hearing Officer

Melissa Jones, Advisor to Commissioner Moore

Dick Ratliff, Staff Counsel

Kae C. Lewis, Project Manager

Amanda Stennick

PUBLIC ADVISER

Robertta Mendonca

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ALSO PRESENT

Delia Dominguez

Video - KGET Channel 17

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 9:07 a.m.

3 PRESIDING MEMBER LAURIE: Good morning,
4 everybody. My name is Robert Laurie, Commissioner
5 at the California Energy Commission. I am
6 Presiding Member of the Siting Committee
7 responsible for hearing and making recommendations
8 on the Pastoria Energy Facility project.

9 To my left is Ms. Susan Gefter. Ms.
10 Gefter is the Hearing Officer assigned to the
11 project. She will administer the hearing today.

12 To Ms. Gefter's left will be my
13 colleague on the Committee, Commissioner Michal
14 Moore -- Dr. Michal Moore, who will be here
15 shortly.

16 Just a couple notes. This is an
17 evidentiary hearing. We do have intervenors. I
18 would note for the intervenors that this is a
19 rather formalistic process. If, however, at
20 anytime during the proceedings you have questions
21 regarding that process, please never hesitate to
22 make inquiry.

23 We're not going to have you not
24 participate because of the formalistic nature of
25 the proceedings today.

1 I would also note that today's hearing
2 is being recorded. At anytime should a problem
3 arise with that recordation we will stop the
4 proceeding until the matter is taken care of.

5 We will take a break about every 12
6 minutes to participate in the snacks brought by
7 the applicants --

8 (Laughter.)

9 PRESIDING MEMBER LAURIE: -- until there
10 is nothing left. I would also note that it is
11 going to be hot today, so we will start off fully
12 clothed and see what things are like by 5:00 this
13 afternoon.

14 We will first, for purposes of the
15 record, make appropriate introductions. We'll ask
16 Ms. Mendonca, the Public Adviser, to comment.
17 First, for the purposes of setting forth the
18 agenda, and the manner in which we will proceed
19 today, I'll now turn the matter over to Ms.
20 Gefter.

21 Now, I'd also note that the microphones
22 that both of us have in front of us are not
23 amplifying microphones. They're microphones to
24 assist with the recording. There are only a
25 couple amplifying microphones.

1 If, at anytime, the members of the
2 audience cannot hear, then please raise your hand
3 and we will administer to that.

4 In light of that issue I would ask all
5 persons who are going to be speaking to raise your
6 voices accordingly so you can be heard.

7 Ms. Gefter.

8 HEARING OFFICER GEFTER: Before we begin
9 I'd like the parties to introduce themselves,
10 starting with the applicant.

11 MR. THOMPSON: Thank you, Ms. Gefter.
12 My name is Allan Thompson. I'm counsel to the
13 applicant for CEC purposes.

14 To my immediate right is Mr. Sam Wehn
15 who is employed by Enron North America as the
16 Project Manager for the applicant. To his right
17 is Mr. Joe Patch of Patch International -- Patch,
18 Incorporated, the chief engineering support for
19 the project.

20 And to Mr. Patch's right is Ms. Scholl
21 from URS, Briner, Woodward, Clyde -- I know I'm
22 forgetting one of the names -- who is chief
23 environmental support for the project.

24 So, at our table we have chief
25 engineering and environmental support, as well as

1 the project applicant.

2 Thank you.

3 HEARING OFFICER GEFTER: Thank you.
4 Staff.

5 MR. RATLIFF: I'm Dick Ratliff, counsel
6 for the staff.

7 MS. LEWIS: Kae Lewis, Project Manager
8 from the Energy Commission.

9 HEARING OFFICER GEFTER: Thank you. And
10 the intervenors, would you please introduce
11 yourselves for us.

12 MS. GRIFFIN: I'm Mary Griffin and I'm
13 here on behalf of the Kern Audubon Society.

14 HEARING OFFICER GEFTER: Thank you.

15 DR. UNGER: Arthur Unger, Kern Chapter,
16 Sierra Club.

17 HEARING OFFICER GEFTER: Thank you.

18 At this point I don't believe there are
19 any agency representatives or local government
20 representatives present, although we expect them
21 to attend as the proceedings go forward in the
22 next two days.

23 Ms. Mendonca.

24 MS. MENDONCA: Good morning, my name is
25 Roberta Mendonca, and I'm the Public Adviser at

1 the California Energy Commission.

2 I would like to briefly summarize the
3 outreach of the Public Adviser in the Pastoria
4 project.

5 Basically because there have been other
6 projects in Kern County the Public Adviser began
7 scoping or doing outreach on this project by
8 contacting the people that had previously been
9 interested in other siting cases in this area.

10 We informed the Committee by way of a
11 status report that we had had several contacts
12 with individuals in the community, including the
13 two members of the community that ultimately
14 intervened, Dr. Unger and Mary Griffin.

15 One person that we had had contact with
16 was Dee Dominguez, and she will be appearing today
17 as a member of the public representing the Chumash
18 Tribe. And she will like to be making public
19 comment when that issue on cultural resources
20 appears.

21 Thank you very much.

22 PRESIDING MEMBER LAURIE: Thank you.
23 Question. Who claims ownership for the video
24 recording? Is that ours?

25 SPEAKER: No. This is for KGET, channel

1 17.

2 PRESIDING MEMBER LAURIE: Great, okay.

3 Thank you. Just so we know. Thank you.

4 HEARING OFFICER GEFTER: Sorry, would
5 you repeat that again for our court reporter, she
6 couldn't --

7 SPEAKER: KGET, Channel 17. KGET,
8 Channel 17.

9 PRESIDING MEMBER LAURIE: Okay, Ms.
10 Gefter.

11 HEARING OFFICER GEFTER: All right. I'd
12 like to provide a little background on this
13 proceeding before we begin taking evidence.

14 On November 30, 1999, Enron Corporation
15 filed an application for certification to build
16 the Pastoria Energy Facility on the Tejon Ranch
17 property about 30 miles south of Bakersfield.

18 The application has been reviewed by the
19 relevant federal, state and local agencies, as
20 well as by Commission Staff. The final staff
21 assessment, which includes a discussion of the
22 agency reviews and responses to public comment and
23 agency comment, was published on September 1st of
24 this year.

25 And the purpose of today's evidentiary

1 hearings is to receive evidence, including sworn
2 testimony, to establish the factual record
3 necessary to reach a decision on the application.

4 Evidentiary hearings are formal in
5 nature, as Commissioner Laurie has indicated.
6 Witnesses will testify under oath or affirmation
7 and are subject to cross-examination by other
8 parties. The court reporter here will administer
9 the oath.

10 A party sponsoring a witness will
11 establish the witness' qualifications, and then
12 ask the witness to summarize his or her testimony.
13 Testimony may also be submitted by declaration
14 under penalty of perjury.

15 Both the applicant and staff have
16 submitted witness declarations for many of the
17 topics that are not in dispute. The parties will
18 keep in mind, however, that testimony submitted by
19 declaration is subject to cross-examination.

20 If the intervenors have questions on any
21 of the topics submitted by declaration, they may
22 question the party offering the declaration.

23 Multiple witnesses may testify as a
24 panel if necessary, and the Committee may also
25 question witnesses.

1 The Committee distributed a current
2 version of the proposed exhibit list based on
3 exhibits that both the staff and the applicant
4 have submitted to us, as well as a document from
5 Dr. Unger, our intervenor.

6 Please identify exhibits relevant to
7 each topic as you present your testimony, and then
8 move them into evidence as appropriate.

9 Upon conclusion of each topic area we
10 will invite members of the public to offer unsworn
11 public comment. Public comment is not testimony;
12 however, it may be used to explain evidence in the
13 record.

14 Does anyone have any questions before we
15 begin?

16 PRESIDING MEMBER LAURIE: Ms. Gefter, my
17 understanding is that today will be dedicated to
18 matters being taken by declaration, generally
19 noncontroverted. Tomorrow it is the intention to
20 have witnesses on a number of issues, is that
21 correct?

22 HEARING OFFICER GEFTER: That was the
23 intention, and I believe the parties understood
24 that approach. However, on a few of the topics
25 today I believe the applicant will provide

1 witnesses to give us a summary of the testimony.
2 However, as you indicated, these are typically
3 undisputed issues.

4 Does the intervenor have any questions,
5 either Ms. Griffin or Dr. Unger? Questions?

6 MS. GRIFFIN: No, I don't.

7 HEARING OFFICER GEFTER: All right,
8 well, then we can begin. And our first topic is
9 project description, begin with the applicant.

10 MR. THOMPSON: Thank you, Ms. Gefter.

11 HEARING OFFICER GEFTER: I'll ask you to
12 swear your witness before you begin.

13 MR. THOMPSON: Before we do that I have
14 a couple preliminary things that I would like to
15 apprise the Committee and the public on.

16 Number one, our air quality witness,
17 Joan Heredia, is scheduled for tomorrow. There
18 was a death in her immediate family and she is
19 apparently flying back and will get here tomorrow,
20 our latest word. But we would ask indulgence and
21 put her on in the afternoon so that we can have
22 the proper witness. She's scheduled -- her flight
23 is scheduled to arrive at 1:00. If she's flying
24 United we may have to be here till midnight,
25 but --

1 (Laughter.)

2 MR. THOMPSON: -- we are anticipating
3 that she will be here shortly after the noon break
4 tomorrow.

5 Second is we have received a number of
6 documents from our two intervenors, the latest
7 coming in, I think, on the 16th. Most of the
8 topic areas that have been raised by intervenors
9 are topics that will be covered tomorrow on
10 Tuesday. However, there are one or two that we
11 may be able to discuss today when we have the
12 appropriate witness on the stand and we will do
13 that.

14 Other than that I think applicant is
15 ready to proceed, and we would like to call Mr.
16 Sam Wehn as our first witness. Mr. Wehn needs to
17 be sworn.
18 Whereupon,

19 SAMUEL L. WEHN
20 was called as a witness herein, and after first
21 having been duly sworn, was examined and testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. THOMPSON:

25 Q Would you please state your name for the

1 record.

2 A Samuel Wehn.

3 Q And by whom are you employed?

4 A Enron North America Corporation.

5 Q And are you the same Sam Wehn that
6 submitted prepared testimony as a part of what has
7 now been identified as exhibit 38 to this
8 proceeding?

9 A Yes, I am.

10 Q And if I were to ask you the questions
11 in that testimony would your answers today under
12 oath be the same?

13 A Yes.

14 Q And you accept that testimony as your
15 own?

16 A Yes.

17 Q Attached to that testimony are two
18 documents, one, your rÇsumÇ, and that is indeed
19 your rÇsumÇ, is that correct?

20 A Yes, it is.

21 Q And a letter from the Building Trades
22 Council of Kern, Inyo and Mono Counties of
23 California, am I correct, that that letter to Kae
24 Lewis, CEC Project Manager, has now been
25 identified as exhibit 43 to this proceeding?

1 A That is correct.

2 Q Thank you. Am I also correct that you
3 are here today sponsoring the following portions
4 of exhibit 1, which is the application for
5 certification, sections 1.0, 2.0, 6.0, 7.0 and
6 appendices S and T, exhibit 18, which are the ERCs
7 and option agreements, and exhibit 27, which are
8 applicant's comments to the PDOC, is that correct?

9 A That is correct.

10 Q Would you please give us a brief summary
11 of your testimony in the area of project
12 description?

13 A In the area of project description the
14 first activity in siting a power plant was for us
15 to look at the load centers within California.
16 And upon identifying the load centers then we
17 tried to locate a site that would provide us with
18 an appropriate electrical, water and gas
19 connection.

20 With regard to the electrical
21 connection, in all three cases incidentally, we
22 were looking for the shortest connection as well
23 as availability to connect.

24 With electricity we're connecting into
25 the Pastoria substation, which is approximately

1 1.25 miles from the plant site. And that would
2 service the loads both within the Bakersfield
3 area, as well as southern California.

4 With respect to gas, we were looking to
5 connect into the Kern/Mojave pipeline system, and
6 that Kern/Mojave pipeline system gives us the
7 ability to obtain gas from the Rocky Mountain
8 Basin, as well as the Permian Basin. And in
9 either of those cases they don't have an affect on
10 the southern California conditions that exist
11 today.

12 HEARING OFFICER GEFTER: I'm sorry, Mr.
13 Wehn, when you said the Permian Basin, how do you
14 spell that?

15 MR. WEHN: I believe it's P-e-r-m-i-a-n.

16 HEARING OFFICER GEFTER: Where is that?

17 MR. WEHN: It's located around New
18 Mexico, West Texas area.

19 HEARING OFFICER GEFTER: Okay, thank
20 you.

21 MR. WEHN: With regard to water, we were
22 looking for a supply of water that would
23 accommodate our needs. We negotiated an agreement
24 with Wheeler Ridge/Maricopa Water Storage
25 District, and they are able to provide us what we

1 term as pooled water.

2 Pooled water is water in which the
3 constituents of the Wheeler Ridge District has
4 priority on first use. If they decide that they
5 do not need the water they will then turn it back
6 into this pool of which it will be offered up for
7 resale to this facility.

8 If, in the event that they use the water
9 and there is none available to this facility, we
10 have gone out and purchased an option to buy
11 40,000 acrefeet of water from the West Side
12 Mutual.

13 And Azurix Corporation will be the
14 entity that manages the entire water supply for
15 this Pastoria facility.

16 The location of the project was selected
17 because of all three of those entities, where they
18 best suited for locating this plant on the Tejon
19 Ranch. We entered into an option to lease the
20 property with Tejon Ranch, and it is a long-term
21 lease which will be executed upon financial
22 closing of the project.

23 And that concludes --

24 BY MR. THOMPSON:

25 Q Thank you, Mr. Wehn. One point of

1 clarification. When you mentioned the southern
2 California conditions of the pipeline, were you
3 referring to natural gas pipeline capacity
4 constraints that exist in the LA Basin and south
5 that would not affect this project?

6 A That is correct.

7 MR. THOMPSON: Thank you very much, Mr.
8 Wehn. Mr. Wehn is tendered for cross-examination.

9 HEARING OFFICER GEFTER: Does staff have
10 cross-examination of the witness?

11 MR. RATLIFF: No.

12 HEARING OFFICER GEFTER: Do either of
13 the intervenors have cross-examination? Yes.
14 Please come forward, Ms. Griffin.

15 PRESIDING MEMBER LAURIE: Ms. Griffin,
16 you are not testifying, you are simply asking
17 questions. And let's make sure we are clear on
18 this. You will have your opportunity to comment.
19 The purpose of this moment is to ask questions.
20 So if you have comment or testimony, then you'll
21 be given an opportunity to do that.

22 What we would like you to do is, if you
23 have specific questions of the witness, use this
24 time to ask those specific questions.

25 MR. THOMPSON: Mr. Commissioner, if I

1 may further, applicant intends to offer Mr. Wehn a
2 number of times. For example, project description
3 is up now. We would put him back on, for example,
4 for alternatives.

5 So to the extent you have questions in
6 project description this is the time.

7 MS. GRIFFIN: Okay.

8 CROSS-EXAMINATION

9 BY MS. GRIFFIN:

10 Q Mr. Wehn, you just said a few minutes
11 ago that this project was to serve the Bakersfield
12 area and southern California? I think we can
13 check the record. But, that's what you said?

14 A When we run power flow studies through,
15 actually the Southern California Edison ran the
16 power flow studies, the electrons in that study
17 flow toward the load centers are located.

18 So in the event that the load here in
19 the Bakersfield area increases, the electrons from
20 this power plant will then end up being --
21 residing right here in the Bakersfield area.

22 Q Now, the California Energy Commission
23 had a meeting on March 13th of this year at the
24 Petrol Travel Center in Lebec, California --

25 A Yes.

1 Q -- I don't call it Lebec, but I'm wrong.
2 But I call it Kern County, unincorporated area of
3 Kern County.

4 Mr. Wehn, that testimony was available
5 on line, and I had a look at it and printed it.
6 And this is something, pages 16 and 17, as my
7 printer took it, this was something I found a
8 little disturbing.

9 Okay, quote, this is you, "One of the
10 opportunities here in looking at the transmission
11 congestion in central California there is a fair
12 amount of congestion at the Midway substation.
13 The selection here was to connect into the
14 Pastoria substation and the electrons would flow
15 south rather than flowing north, which would help
16 relieve some of the congestion on Midway and going
17 further north."

18 Is there any guarantee that Bakersfield
19 would benefit? Even Kern County? That's pretty
20 south in Kern County. Is there any guarantee that
21 Kern County is going to benefit from the energy
22 produced at this plant?

23 A I think it would be unfair to use the
24 word guarantee, because I'm not able to do that.
25 The way the system is set up, if the load grows in

1 a certain area that's where electrons flow from
2 the generation to that immediate load center.

3 I would suggest to you that from our
4 evidence, as Bakersfield is increasing in
5 population we're finding a larger load here in the
6 Bakersfield area, and hence less energy from the
7 plant would be flowing south.

8 When we did the load flow study back in
9 March that was the indication that a lot of the
10 electrons are going to flow further south into Los
11 Angeles. I think we're finding as we go further
12 out into 2004, 2005 timeframe that that is going
13 to shift simply because of the load growth within
14 Bakersfield.

15 That is something that I cannot sit here
16 and answer to you today, that in fact guaranteed
17 you will see more of the energy from this facility
18 going to Bakersfield rather than southern
19 California.

20 HEARING OFFICER GEFTER: Mr. Wehn, point
21 of clarification. In terms of deciding where the
22 electrons flow, is that the business of Cal-ISO?

23 MR. WEHN: That is correct.

24 HEARING OFFICER GEFTER: Ms. Griffin, do
25 you want a further explanation of that?

1 Ms. Griffin?

2 MS. GRIFFIN: Well, it seems to me that
3 just from this statement they chose the Pastoria
4 substation because the electrons would flow south
5 rather than flowing north. And I noticed this
6 statement several months ago when I was concerned,
7 because we're getting quite a few of these plants.
8 I'd like to see them be some benefit to the
9 community.

10 MR. WEHN: One of the things I think we
11 can say is that this project will be selling into
12 the marketplace, the PX, the ISO. They manage the
13 load. We will not be managing that.

14 Our bids will determine whether we will
15 operate; and beyond that, the electrons are going
16 to be controlled by the Cal-ISO.

17 MS. GRIFFIN: Thank you, Mr. Chairman.
18 Now, should I submit -- I made copies of pages 16
19 and 17 of what he said on March 13 --

20 PRESIDING MEMBER LAURIE: Those would
21 already be a part --

22 MS. GRIFFIN: In the record.

23 PRESIDING MEMBER LAURIE: -- of the
24 record, yes.

25 MS. GRIFFIN: Okay, thank you.

1 HEARING OFFICER GEFTER: That was part
2 of the transcript of the proceedings at the
3 informational hearing.

4 MS. GRIFFIN: Yes.

5 HEARING OFFICER GEFTER: Yes, we have
6 that, thank you.

7 Dr. Unger, do you have questions of the
8 witness?

9 DR. UNGER: No, thank you.

10 HEARING OFFICER GEFTER: Mr. Wehn, I
11 also, with respect to project description I don't
12 know if you intended to describe the actual
13 facilities at the plant, or whether the applicant
14 intends to describe that later in facility design?

15 MR. THOMPSON: I've been at this for 20
16 years, and project description and facility design
17 are never clear in my mind. But what we would
18 like to do is to present Mr. Patch as part of
19 project description, and that will be more of an
20 engineering overview of the project.

21 And then when we get into facility
22 design Mr. Patch would discuss facility design and
23 help incorporate the testimony of Mr. Worrell and
24 Mr. Atteberry, both with Patch.

25 HEARING OFFICER GEFTER: Thank you. The

1 Committee doesn't have questions of Mr. Wehn at
2 this point.

3 MR. THOMPSON: Thank you. Still in the
4 area of project description, applicant would like
5 to call Mr. Joe Patch.
6 Whereupon,

7 C.J. "JOE" PATCH
8 was called as a witness herein, and after first
9 having been duly sworn, was examined and testified
10 as follows:

11 DIRECT EXAMINATION

12 BY MR. THOMPSON:

13 Q Would you please state your name for the
14 record?

15 A Joe Patch.

16 Q And by whom are you employed?

17 A Patch Incorporated.

18 Q And is the testimony of Joe Patch
19 submitted as part of exhibit 38 to this
20 proceeding, is that your testimony?

21 A Yes, it is.

22 Q And if I were to ask you the questions
23 contained in that testimony would your responses
24 today under oath be the same?

25 A Yes, they would.

1 Q And you accept that as your own?

2 A Yes, I do.

3 Q And am I correct that today you are
4 sponsoring exhibit 1, which is the AFC, sections
5 3.1, 3.2, 3.3 and 3.8, exhibit 9, 16, 17 and 18 as
6 part of your testimony on project description?

7 A Yes, I am.

8 Q Would you please give a summary of your
9 testimony for the record.

10 A As the engineering support for the
11 project and for the development of this
12 application, it has been our task to develop all
13 of the general arrangement drawings for the plant,
14 to identify the utilities, the interconnection of
15 those utilities, and the general sizing of those
16 utilities as is required to support the operations
17 of the plant.

18 Typically what we have done is produced what
19 we call the layout general arrangement drawings,
20 which shows the plant, the plant's location on the
21 property; it shows the access to this plant, which
22 comes off the Edmonston Pump Plant Road down to
23 the plant, itself.

24 The equipment arrangement of the major
25 items, of course, being the gas turbines,

1 themselves, accommodated by the switchyard which
2 connects back up to the Pastoria substation, as
3 well as the cooling tower system.

4 The utilities have been identified as
5 the interconnect to the grid, the transmission
6 system, the short water connection that's being
7 provided by Wheeler Ridge, and the gas line
8 connection to the Kern/Mojave pipeline about 11
9 miles away to the north.

10 In addition we have looked at and
11 provided a schedule. This looks at the
12 engineering and construction activities that are
13 required to design and physically build this
14 plant. The operational issues addressed are part
15 of the overall engineering assessment such that
16 the equipment is being designed, sized and
17 duplicated to provide reliability for either full
18 baseload operations or load-following, whatever
19 may be required based on the future dynamics of
20 the energy market in the State of California.

21 And that concludes my overview.

22 Q Thank you, Mr. Patch. In your prepared
23 testimony as part of exhibit 38, you described the
24 zero discharge system. Recognizing that this is a
25 somewhat complicated area, do you have any further

1 explanation that would assist the record in
2 understanding the heat rejection system?

3 A Yes. Yes, I do. In a response to data
4 request 44 filed in December, the general
5 description and outline of the zero discharge
6 system was put forth.

7 Since then there have been several data
8 requests that have addressed the issue. And it
9 may be more appropriate to not only address the
10 zero discharge system, but possibly the whole
11 water system.

12 In a filing in April, I believe it was
13 April 3rd, there were four sheets of a process
14 flow diagram that looked to address the water as
15 it is taken from the aqueduct and moved through
16 the complete system into the plant until it
17 reaches the zero discharge system, and is reduced
18 to a solid.

19 And if I might, this would be a good
20 time?

21 MR. THOMPSON: If I may, we have some
22 copies of flow diagram sheets we can pass out, and
23 then leave it to the Committee if this would help
24 the record, we can move it into evidence.

25 HEARING OFFICER GEFTER: I'd like to

1 identify your flow chart as the next in order,
2 which I believe would be exhibit 44. So as you
3 refer to this in the record, this would be exhibit
4 44.

5 Would you give the reporter a copy,
6 please; she can see it and identify it for the
7 record. And, Mr. Thompson, would you describe
8 exhibit 44 to us.

9 MR. THOMPSON: Yes. Exhibit 44 is a
10 four-page, four pages connected together by
11 staple, a four-page engineering diagram of
12 multiple colors entitled, preliminary process flow
13 diagram, raw and domestic water treatment and
14 storage. Sheets 1 through 4.

15 (Pause.)

16 MR. THOMPSON: Let me amend that. While
17 the title blocks on each page have different
18 descriptions, what is the same on each is the
19 designation D-9880-1021, sheets 1 through 4. We
20 could ask that that be identified as exhibit 44.

21 HEARING OFFICER GEFTER: Yes, this will
22 be exhibit 44.

23 BY MR. THOMPSON:

24 Q Mr. Patch, would you please continue
25 with your explanation with the use of exhibit 44

1 where appropriate.

2 A If I could refer to exhibit 44, these
3 four sheets of process flow diagram are included
4 in an April 5. The intention was to describe
5 fully the total water system, water demand and
6 water treatment and the control of wastewater
7 discharge that the plant anticipates being used.

8 For sake of discussion today we have
9 taken that same document that is included in the
10 April filing and used some color as a way to help
11 describe, generally describe the system.

12 There are a number of blocks and arrows
13 on these flow sheets that are not identified
14 specifically with colors. They tend to be more of
15 the detailed, more of the specifics of which at
16 some point are, of course, available in the filing
17 for your review.

18 The initial flow of water to the plant
19 is provided by a 27-inch water connection from the
20 Wheeler Ridge/Maricopa Storage District. The
21 plant will bring the water to the site. And as is
22 shown on the general arrangement drawings, will go
23 to a water treatment area.

24 The water treatment area initially will
25 look to remove solids, tumbleweeds, leaves, any

1 miscellaneous debris that may have accumulated as
2 the waters flowed through the canal to the point
3 of the connection to the project. That general
4 process is shown in the very light blue color.

5 Once we have gone through the water
6 treatment system, which is the first stage in the
7 treatment of the water being supplied by the
8 plant, we move to what we call make-up water,
9 clarified make-up water.

10 The primary use of the make-up water,
11 the primary use of the water in the plant will be
12 to supply cooling for the condenser, for the steam
13 turbines.

14 As we move into the make-up water system
15 that has been clarified, we've chosen to use a
16 green color. The flow rates associated with that
17 system are obviously shown, as well.

18 The make-up water tank, which is shown
19 on sheet 1, the first sheet, is both a combination
20 of the plant make-up as well as fire water
21 storage. It's a single tank with the fire water
22 being dedicated as part of that, in that tank.

23 The flow out of the make-up water
24 storage tank, if we could go to sheet three, is
25 primarily discharged into the cooling water basin.

1 The cooling water basin has a controlled, a
2 closed-loop circulating system that brings the
3 water back and forth between the condenser and the
4 steam turbine back to the cooling towers. And
5 that just continues to make that circle hour after
6 hour.

7 There is a second feed and we can see it
8 on sheet 2. The make-up water system and the
9 make-up water tank, after clarification, also
10 supplies the demineralizing system. And that
11 demineralizing system is shown on sheet 2 of 4.

12 The water quality from the canal, based
13 on information from DWI that's also included in
14 the AFC and supplemental filings, is shown
15 reasonably consistent supply of water. We will
16 treat the water as we receive it, recognizing
17 there are some variances across time, across the
18 year.

19 As we treat and demineralize the water
20 what we essentially do is remove any other solids
21 that exist, all of the suspended solids that
22 exist, and all of the dissolved solids that exist
23 to produce a very clean, virtually pure water.

24 The prime use of the demineralized
25 water, and if you go on sheet 2 there's a tank off

1 to the right, it's called the demin water,
2 demineralized water storage tank. It's a little
3 bit hard to read with the hatched in the colors,
4 but the tank on the right side is demineralized
5 water storage tank.

6 And the demineralized water storage tank
7 provides water to the HRSG, as the HRSG continues
8 to produce steam, which is then condensed back to
9 demineralized water, which then produces steam,
10 continuing that cycle. There is also an element
11 called blow-down that is needed to keep the water
12 in the steam drums, in the HRSG, pure.

13 As we go to this fourth sheet what we
14 have is to the left a waste holding tank. For all
15 of the streams in the plant, whether it's the
16 HRSG, blow-downs, and/or the cooling tower blow-
17 downs, or all of the other discharges to the
18 plant, waste discharges to the plant are brought
19 to the holding tank.

20 And the reddish-pinkish color was used
21 to show the zero discharge system. The process is
22 one where the slip-streams are taken to the
23 holding tank. That is done to level out the
24 process so that the system can operate
25 continuously rather than in an up-and-down mode.

1 The process is very straightforward.
2 It's a process that's currently in place in a
3 number of projects in a number of areas across the
4 country. Simply run it through an RO system to
5 concentrate it up. The RO system will produce
6 good water, if you will, which will be taken back
7 to the cooling tower, which will cut the demand
8 for make-up water.

9 As we go to the brine concentrator, it
10 is again a concentration step. The water off the
11 brine concentrator is now very pure, which then
12 reduces the demand on the demineralizing system,
13 which will be taken back to the demineralized
14 water tank.

15 And the water and the vapor, which in
16 the final stages is in the crystallizer, which
17 produces a nonhazardous salt cake, which may have
18 secondary value, also is brought back to the
19 demineralized water tank. Yes, to the demin water
20 tank for make-up to the boilers.

21 In a general sort of way that, I
22 believe, describes the process of how the plant
23 will accept, use and then treat the water streams
24 through the plant.

25 Q Thank you very much, Mr. Patch.

1 MR. THOMPSON: Mr. Patch is tendered for
2 cross-examination.

3 HEARING OFFICER GEFTER: Does staff have
4 cross-examination?

5 MR. RATLIFF: No.

6 HEARING OFFICER GEFTER: Do either of
7 the intervenors, Dr. Unger?

8 DR. UNGER: Is this the proper time to
9 ask about the 5000 acrefeet that in my reading of
10 the FSA will be used up and not recovered?

11 HEARING OFFICER GEFTER: I believe that
12 question would be more appropriately raised during
13 our topic on water quality and water resources.

14 DR. UNGER: Thank you, I'll leave the
15 salt cake for then, too, I guess?

16 HEARING OFFICER GEFTER: Well, you could
17 ask a question about the salt cake now.

18 DR. UNGER: Okay.

19 CROSS-EXAMINATION

20 BY DR. UNGER:

21 Q This salt cake, the source of the salt
22 is -- is the source of the salt the salt one finds
23 in waters that reach the San Joaquin Valley from
24 outside the valley?

25 A The source of the water is -- the source

1 of the salt in the water is a function of the fact
2 that water has run down through the hills, wound
3 up in either a river, whether it's fresh, will
4 then become salty --

5 Q Okay.

6 A -- so it is suspended salts, as is
7 drinking water. Drinking water has a limit,
8 typically 500 ppm tds that is acceptable and
9 considered drinking.

10 In this case the canal has similar
11 characteristics.

12 Q Okay, so Pastoria Energy Facility will
13 import a certain amount of salt into the valley?

14 A The salt is being brought in by DWR in
15 the aqueduct. All we're doing is removing the
16 water --

17 Q Okay, but if we -- if there were no
18 Pastoria Energy Facility would this salt have to
19 be imported into the valley?

20 A All I can suggest is that if the water
21 was used in the valley it contains the salt; and
22 the salt would be imported and used in the valley,
23 yes.

24 Q If there were no Pastoria Energy
25 Facility would it not decrease the amount of salt

1 imported into the valley?

2 A Based on water consumption in the
3 valley, as I understand the agreements with
4 Wheeler Ridge, the answer is no. Since the water
5 would be used in the valley for irrigation, thence
6 it would be used and imparted to the soil in lieu
7 of being concentrated into a usable, potentially
8 usable byproduct.

9 Q So I take it from your question that if
10 there were no Pastoria Energy Facility the salt
11 coming from Pastoria and the water coming from
12 Pastoria could be -- would be available for other
13 uses?

14 A To the extent that Wheeler Ridge has
15 addressed that issue, I'm not sure where you're
16 going with it, but to the extent Wheeler Ridge has
17 addressed that issue, I understand there are
18 contracts in place to supply both other uses as
19 well as this plant being one of those uses.

20 Q My point is because we have Pastoria
21 Energy Facility we import a certain amount of salt
22 into the valley. Do you agree with that?

23 A No.

24 Q You don't think that if we didn't have
25 Pastoria Energy Facility that water would be

1 available for something else? You think we would
2 just let it go out in the ocean?

3 A I can only, you know, try to address it
4 one last time, is that the water that is taken
5 into the facility, while it is used, reduces and
6 is reduced to a salt cake. That's described in
7 several of the filings that we have.

8 Whether that water is used in the power
9 plant and reduced to salt cake, or whether it's
10 taken out of the canal to water agricultural
11 needs, the salt contained in a gallon of water is
12 the same contained in a gallon water.

13 It's either spread on the ground for
14 agricultural, or it's going to be brought to its
15 solid, which may be a teacupful of actual salt.

16 Q Do you think --

17 A But the salt is there.

18 Q Do you think that because we have
19 Pastoria Energy Facility agriculture is going to
20 cut back on the amount of salt it imports into the
21 valley?

22 A I have no opinion on such a question to
23 be honest with you.

24 Q Okay, --

25 HEARING OFFICER GEFTER: Dr. Unger, I

1 believe you've asked the question and the witness
2 has answered the question several times. Do you
3 have another question on this topic?

4 BY DR. UNGER:

5 Q What becomes of the salt that Pastoria
6 Energy Facility has caused to be imported into the
7 valley?

8 PRESIDING MEMBER LAURIE: You're asking
9 a question based upon facts that are not in the
10 record.

11 DR. UNGER: Okay, I'll leave the
12 question. But if it doesn't get answered the
13 important thing is that --

14 PRESIDING MEMBER LAURIE: Why don't you
15 just ask --

16 DR. UNGER: -- the question is in the
17 record.

18 PRESIDING MEMBER LAURIE: Why don't you
19 just ask what happens to the salt, because the
20 witness testified that in the witness' opinion
21 Pastoria is not causing salt to be imported.

22 And your question was what happens to
23 the salt that Pastoria is causing to be imported.
24 Why don't you just ask what Pastoria is going to
25 do with the salt -- with the salt residue.

1 BY DR. UNGER:

2 Q What's Pastoria going to do with the
3 salt?

4 A The discharge from the crystallizer,
5 which is a solid salt cake, is currently been
6 evaluated in several filings that we've made as
7 nonhazardous salt material.

8 Two options seem to be available. One
9 is it can be disposed of in a nonhazardous
10 landfill, that would be one option.

11 The second is it may produce a saleable
12 byproduct. I think that is yet an attempt to
13 determine whether or not there is a market for the
14 salt. It is clean. There's a lot of cows around
15 here.

16 Q Are you aware that the greatest threat
17 to agriculture in the San Joaquin Valley is an
18 accumulation of salt?

19 A I would appreciate that that could
20 exist. Whether I'm aware of that's an issue here,
21 is a pressing issue, I can't tell you that I am.

22 Q Okay.

23 DR. UNGER: Ms. Gefter, the questions go
24 into the record, right?

25 HEARING OFFICER GEFTER: Yes.

1 DR. UNGER: All right, no further
2 questions. Thank you.

3 HEARING OFFICER GEFTER: Thank you.

4 EXAMINATION

5 BY HEARING OFFICER GEFTER:

6 Q Mr. Patch, with respect to the zero
7 liquid discharge process, how common is this
8 process in industrial plants?

9 A It has a number of applications. It's
10 probably more a matter of size and degree. A
11 power plant, let's say a substantial use for a
12 zero discharge system. But there are several
13 firms and several companies that we worked with as
14 we developed what is the process, as it is
15 described, both in the text and the writing, as
16 well as in the flow sheets, where we could
17 provide, or there is provided a list of uses for
18 zero D.

19 Q My question goes more to how typical is
20 this process, how long has it been in effect? You
21 know, has it been used in the industry --

22 A Yes.

23 Q -- for a long period of time?

24 A Yes. It is well established in the
25 industry. It really is a very simple process in

1 some respects because all it really asks to do is
2 to continue to concentrate a similar process in
3 the pulp and paper industry is very common,
4 concentrating liquors.

5 This is very similar to that and there
6 is some cross-overs in equipment between those two
7 applications, in fact.

8 Q Could you give us some sort of timeframe
9 as to how long this process has been used by
10 industry?

11 A To the best of my knowledge forms of
12 zero discharge have been out and available in the
13 industry probably in the 15 years or more.

14 Q Thank you. There was also some
15 information the applicant provided that possibly
16 one use for the salt cake would be for soil
17 amendments. Is there any further information on
18 that?

19 A Not that I'm aware.

20 HEARING OFFICER GEFTER: Are there any
21 further questions from the intervenors?

22 PRESIDING MEMBER LAURIE: Mr. Thompson,
23 did you want to admit 44?

24 MR. THOMPSON: Actually, Mr.
25 Commissioner, there's a number of exhibits I would

1 like to admit, thank you very much.

2 Mr. Patch, you're excused.

3 Applicant would like to move into
4 evidence exhibit 18, which is cosponsored both by
5 Mr. Wehn and Mr. Patch. 27, sponsored by Mr.
6 Wehn. 9, 16 and 44 sponsored by Mr. Patch.

7 HEARING OFFICER GEFTER: And is there
8 any objection to the admission of those exhibits
9 into the record? Staff?

10 MR. RATLIFF: No.

11 HEARING OFFICER GEFTER: Intervenors?

12 DR. UNGER: No.

13 HEARING OFFICER GEFTER: No objections.

14 The exhibits are now moved into the record.

15 With respect to the portions of exhibit
16 1 that your witnesses, Mr. Thompson, referred to,
17 it would probably be best at the end of both days
18 of evidentiary hearings to move the entire exhibit
19 into the record at that time.

20 MR. THOMPSON: That was what I was going
21 to do, thank you.

22 HEARING OFFICER GEFTER: Let's go off
23 the record.

24 (Off the record.)

25 HEARING OFFICER GEFTER: The next topic

1 is the issue regarding integrated assessment of
2 need, since the statute has changed as of January
3 of 2000. The way we would address this issue is
4 to ask counsel for the parties to indicate to us
5 the views of the parties on that question of need.
6 Mr. Thompson?

7 MR. THOMPSON: Thank you. We would like
8 to turn to staff. We did not include a write-up
9 on integrated assessment of need, and I'm grateful
10 that the staff did address that issue.

11 HEARING OFFICER GEFTER: Mr. Ratliff.

12 MR. RATLIFF: Well, the staff FSA
13 includes a brief statement that the Warren-Alquist
14 Act was amended two years ago to remove the duty
15 of the Energy Commission to make any finding
16 concerning whether or not a proposed facility is
17 consistent with the integrated assessment of need
18 that the Energy Commission is required to perform.
19 And that's really all the statement says.

20 PRESIDING MEMBER LAURIE: Mr. Ratliff,
21 the Warren-Alquist Act was amended to delete the
22 requirement that there be an express finding of
23 need, is that correct?

24 MR. RATLIFF: Yes.

25 PRESIDING MEMBER LAURIE: Nevertheless,

1 the issue of reliability and the issue of need or
2 the issue of the impact that this project will
3 have on the entirety of the system could be
4 relevant on questions of over-ride findings, is
5 that correct?

6 MR. RATLIFF: Well, certainly need, in
7 the ordinary sense, would always be relevant to an
8 over-ride finding, I think.

9 PRESIDING MEMBER LAURIE: Up to this
10 point the Committee has not sought such evidence.
11 At such time as the Committee feels such evidence
12 to be appropriate and necessary, it will make such
13 an order to the parties.

14 HEARING OFFICER GEFTER: Does the
15 intervenor have any questions regarding the topic
16 of need?

17 DR. UNGER: No.

18 HEARING OFFICER GEFTER: Thank you.

19 MS. GRIFFIN: No.

20 HEARING OFFICER GEFTER: Thank you. All
21 right, we'll go on to the next topic, and that is
22 alternatives. We'll ask the applicant to go
23 forward.

24 MR. THOMPSON: Thank you very much.

25 Applicant would like to recall Mr. Wehn and note

1 that he has been previously sworn. Would the
2 Committee like to have them sworn again each time
3 he goes up?

4 HEARING OFFICER GEFTER: No.

5 MR. THOMPSON: Okay, thank you very
6 much.

7 DIRECT EXAMINATION

8 BY MR. THOMPSON:

9 Q Mr. Wehn, again, you are the same Sam
10 Wehn that has been identified in your testimony as
11 part of exhibit 38 to this proceeding?

12 A Yes, I am.

13 Q Thank you very much. With regard to
14 alternatives, am I correct that you are sponsoring
15 exhibit 1 which is the applicant's AFC, those
16 portions dealing with site alternatives, section
17 3.11.1, 3.11.2, and 3.11.7?

18 A Yes, I am.

19 Q And would you give a brief summary of
20 your testimony on project alternatives?

21 A When we located the site at the
22 Pastoria, around the Edmonston pumping plant
23 station, we actually looked at three different
24 locations within that region to find a site that
25 was best selected for this facility.

1 The first site we looked at was adjacent
2 to the Pastoria substation. We found some
3 problems there because of our air quality
4 evaluation.

5 We then further moved the facility
6 further out into the farmland going north towards
7 the vineyards. And what we found is it would be,
8 the plant site would be, from a visual point of
9 view, sitting out sort of like a sore thumb in the
10 middle of this open area.

11 So we tried to co-locate the project
12 further back and adjacent to the rock quarry that
13 currently exists on the Tejon Ranch. And we felt
14 by co-locating it, or locating it adjacent to that
15 facility that we would meet all the laws,
16 ordinances, regulations and standards, and be able
17 to install a facility that would have its gas,
18 electric and water closest to the facility.

19 Q Does that complete your summary?

20 A Yes.

21 Q Thank you very much.

22 MR. THOMPSON: Mr. Wehn is tendered for
23 cross-examination in the area of alternatives.
24 Let me add that we are also going to present Mr.
25 Patch on alternatives. Mr. Wehn is more of the

1 project alternatives, and Mr. Patch will talk
2 about more of the engineering alternatives.

3 HEARING OFFICER GEFTER: Does staff have
4 cross-examination of Mr. Wehn?

5 MR. RATLIFF: No.

6 DR. UNGER: No.

7 HEARING OFFICER GEFTER: Intervenors?

8 Thank you.

9 Question for Mr. Wehn.

10 EXAMINATION

11 BY HEARING OFFICER GEFTER:

12 Q Regarding your choice of alternatives,
13 was this driven also by your project objectives?

14 A Yes, it was.

15 Q Would you describe to us what project
16 objectives Enron was proposing?

17 A We were looking at trying to locate
18 closest to the load center. And over a year ago,
19 at that time the load center was southern
20 California. The opportunity to connect into the
21 Pastoria substation, which is about 1.2 miles away
22 from this facility appeared to be the best site
23 that could be selected to meet that objective.

24 Q Anything else?

25 A No, ma'am.

1 REDIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q Mr. When, as part of the project
4 objectives, did that also include the opportunity
5 to connect to the interstate natural gas pipeline?

6 A Yes, it did. Kern/Mojave gasline is a
7 gasline that we could receive gas from, as I
8 mentioned earlier, the Permian Basin, as well as
9 the Rocky Mountains. So we do have sources, two
10 sources that can provide gas to this facility.

11 Q Thank you very much.

12 EXAMINATION

13 BY HEARING OFFICER GEFTER:

14 Q Mr. Wehn, the proposed Pastoria project
15 is a merchant power plant, is that correct?

16 A Yes, it is.

17 Q And what were the advantages that Enron
18 was seeking in terms of your proposal as a
19 merchant plant in terms of an alternative choice?

20 A Well, I think just the simple fact that
21 this is going to be one of the most efficient
22 plants that would be installed today. We felt
23 that in the bidding process to enter the market
24 you not only have to be efficient, but you have to
25 co-locate near the load centers.

1 We felt in both cases that the
2 efficiency of the plant, the opportunity to obtain
3 gas, the ability to bid into the marketplace, and
4 get our energy to the market are the key
5 advantages to the current location that we've
6 selected.

7 HEARING OFFICER GEFTER: Thank you. Mr.
8 Thompson.

9 MR. THOMPSON: I think that's it.

10 HEARING OFFICER GEFTER: The witness may
11 be excused.

12 MR. THOMPSON: Applicant would like to
13 recall Mr. Patch in the area of alternatives. Mr.
14 Patch has been previously sworn.

15 DIRECT EXAMINATION

16 BY MR. THOMPSON:

17 Q Mr. Patch, again, your testimony which
18 is contained in exhibit 38, is your testimony
19 additionally for the area of project alternatives,
20 is that correct?

21 A Yes, it is.

22 Q And in that testimony you seek to
23 sponsor portions of exhibit 1, which is
24 applicant's AFC, specifically section 3.11.3,
25 3.11.4, 3.11.5 and 3.11.6, is that correct?

1 A Yes.

2 Q Would you please give a brief summary of
3 your testimony on alternatives?

4 A From the engineering perspective there
5 were several issues that were addressed in the
6 ability to spot and locate the plant physically.
7 Primarily those objectives were to provide a
8 connection to the transmission system that would
9 allow the power to be placed into the California
10 grid. That connection, as short as possible would
11 be most desirable, of course.

12 The availability and access of water.
13 And the ability to connect to an interstate gas
14 pipeline.

15 All three of those, and the fourth item
16 was the ability to use the terrain in a
17 complementary fashion.

18 As a result we have spotted the plant
19 and located the general arrangement as it's been
20 shown on the number of drawings and in various
21 detailed levels that's included in the AFC and
22 some of the supplemental filings.

23 The alternatives were also addressed as
24 to what plant or what types of plants might be
25 available. Natural gas, gas turbines are

1 currently used throughout the state, throughout
2 the country. The driver for that, of course, is
3 that they are highly efficient, highly economical
4 to run, produce power at about the least cost
5 possible today.

6 In the demineralization system we looked
7 at an alternative as to whether we use things like
8 resin beds or whether we use what's called an EDI
9 process, it's an electrolysis process. We have
10 selected the EDI process.

11 HEARING OFFICER GEFTER: Would you
12 please spell that out for us, an EDI process, what
13 does that refer to?

14 MR. PATCH: It's called
15 electrodemineralization.

16 HEARING OFFICER GEFTER: What does that
17 mean?

18 MR. PATCH: It means it does it in
19 small -- the water is deionized using electric
20 current.

21 In addition, one of the alternatives
22 that were evaluated was the means of cooling. We
23 did look at both the wet towers, which have
24 currently been identified and selected for use on
25 the project. Natural draft, mechanical draft

1 cooling towers -- mechanical draft cooling towers.

2 The issue of whether or not the dry
3 cooling was an option was also addressed. The
4 evaluation of that system concluded that the times
5 of the year when the power was most needed was the
6 times also in the year when that system produced
7 the least amount of power, had the highest
8 parasitic loads, auxiliary loads, as well as
9 created the highest back pressures on the
10 turbines, such that the power output of the plant
11 was diminished.

12 And the capital cost was very very
13 significant. A summary of that was that dry
14 cooling was not selected.

15 And that concludes my testimony.

16 HEARING OFFICER GEFTER: Does staff have
17 cross-examination of the witness?

18 MR. RATLIFF: No.

19 HEARING OFFICER GEFTER: Do either
20 intervenor have any --

21 DR. UNGER: No.

22 HEARING OFFICER GEFTER: -- questions of
23 the witness? Ms. Griffin?

24 MS. GRIFFIN: Mary Griffin here for Kern
25 Audubon.

1 CROSS-EXAMINATION

2 BY MS. GRIFFIN:

3 Q Mr. Patch, were you handed this site or
4 did you have anything to do with getting out in
5 the field and looking at it?

6 A Yes, we made a site visit. There was
7 generally --

8 Q I'm talking -- we're talking about
9 alternatives. Did you get out and have a look at
10 the other possible alternatives?

11 A Yes.

12 Q You did?

13 A Yes, in this area, yes, we did.

14 Q Now, there are three creeks there,
15 Pastoria, Tunis and El Paso, that the local folks
16 call them gully-washers. And what made this site,
17 taking into account that it's on a flood plane,
18 what made this site so superior, including having
19 to put up with possible floods that can be pretty
20 strong? Compared to the other sites you looked
21 at.

22 A Well, there were advantages, obviously,
23 and disadvantages. In terms of specifically
24 addressing the flood plane issue, FEMA has
25 identified the general area as a flood plane.

1 Unfortunately, FEMA has not identified
2 specifically what occurs in the flood plane or the
3 frequency.

4 There was a significant amount of work
5 done on hydrological studies that were produced,
6 based on the location of the site and it's being
7 adjacent to the existing gravel quarry operation.

8 What we have determined is that the
9 flood plane, while it is generally described as
10 very broad, is also very shallow. So that we do
11 not necessarily expect areas of the flood plane to
12 have significant amounts of water traveling at
13 high velocities.

14 And we've accounted for that, we
15 believe, or at least we have attempted to in the
16 program that identifies the access road as it
17 enters the site, as well as a series of berms
18 which are used to control the water and to slide
19 this very shallow, if you will, kind of sheet off
20 into Pastoria Creek and the surrounding area,
21 which continues to fall to the north and west,
22 which is away from the plant.

23 And the location of the plant was moved
24 several times, finally in its current position, to
25 accommodate that drainage.

1 So we believe that, in fact, we have
2 taken a step forward in defining what occurs out
3 there, and the fact that it is very shallow and
4 sheet flow, and allowed it to be moved into the
5 direction it will move anyway.

6 Now the gravel quarry provided somewhat
7 of a backstop because they had already built a
8 levee out there, as you can see, right adjacent to
9 the plant to the east.

10 Q When I first was reading the information
11 earlier this summer about this quote-unquote
12 designation as a flood plane, I don't think they
13 mentioned FEMA, they mentioned Kern County
14 Department. Are there any records of FEMA, are
15 there any records of a supervising county engineer
16 looking at this area?

17 A The designation of the flood plane, to
18 our understanding the county has done no work in
19 that area. And typically that work, particularly
20 in remote areas like this, is handled by the
21 federal government. So the Federal Emergency
22 Management Act identifies and produces maps that
23 address these kinds of issues, and that is and has
24 been the basis for our assessment.

25 Q Well, this is private land, and I have

1 spoke to the hydrologist before I came here, and
2 he told me that the Army Corps of Engineers and
3 FEMA just can't trot onto your spread, that they
4 have to be, usually somebody, a responsible person
5 in the engineering or surveying department or
6 something in a county invites the federal agency
7 on, and I -- in order to designate --

8 A Maybe at some point --

9 Q Because I read --

10 A Yes.

11 Q -- I read environmental impact reports
12 all the time, and they say, oh, no, no, no --
13 about flood at all, and then I check on it. There
14 really hasn't been any survey work done on them to
15 figure out what's going on.

16 HEARING OFFICER GEFTER: Well, what is
17 your question, Ms. Griffin, if you want to just
18 focus it on a question.

19 BY MS. GRIFFIN:

20 Q I just wanted to know, in the documents
21 there didn't really seem to be that much
22 documentation of the designation. And you feel
23 this is superior after it's bermed up?

24 A Yes.

25 Q But it has to be mitigated to be

1 superior to the other alternative --

2 A I don't understand the question.

3 Q -- alternatives?

4 HEARING OFFICER GEFTER: The witness
5 doesn't understand the question.

6 BY MS. GRIFFIN:

7 Q Going back to what I first said, it has
8 to be mitigated, bermed. Those creeks have to be
9 changed --

10 A No, --

11 Q -- in order for this site to --

12 A No, there is no change in the flow
13 pattern; there is no change in Pastoria Creek
14 flow. What the berms are attempting to do is to
15 simply take this shallow sheet flow that is to the
16 east of Pastoria Creek, as the Creek normally
17 flows to the north and west, and just simply move
18 some of that water around the plant, recognizing
19 the huge capital investment that the facility
20 represents.

21 But there is no change to the general
22 flow of the now what is currently the area that
23 the plant accommodates, or uses.

24 Q And you feel the flow out there is
25 always channelized?

1 A No. I think based on what we've seen
2 with FEMA there is a sheet flow that covers a very
3 general area of which the berms essentially act
4 like a curb and gutter in the street. And they
5 simply bring it to a catch basin.

6 In this case we're simply deflecting it
7 to the north and the west.

8 Q Okay.

9 A That is the plan, that's the attempt
10 that we --

11 Q Thank you.

12 A Sure.

13 EXAMINATION

14 BY HEARING OFFICER GEFTER:

15 Q Mr. Patch, regarding Ms. Griffin's
16 question about the site being located on private
17 property, it is the case that you have been
18 working with the U.S. Army Corps of Engineers on
19 this site, is that correct?

20 A Well, well there are permits being
21 submitted for the pipeline installation. FEMA has
22 addressed this. Now, I can only conjecture that
23 because of the DWR's installation of the aqueduct
24 which crosses the property, as well as the
25 transmission lines that both Southern Cal Ed and

1 PG&E have, as well as the Pastoria substation,
2 which has made some modifications to protection,
3 if you will, for the substation, itself, which
4 have obviously stood the test of time, that in
5 that collective effort there has been survey work
6 done with the proper agency.

7 REDIRECT EXAMINATION

8 BY MR. THOMPSON:

9 Q Mr. Patch, is it your experience that
10 FEMA's maps do include the mapping of private
11 property?

12 A Yes, they do.

13 MR. THOMPSON: Thank you.

14 HEARING OFFICER GEFTER: Any other
15 questions of the witness? The witness may be
16 excused.

17 MR. THOMPSON: Thank you. That
18 completes the testimony on alternatives. The next
19 topic area is facility design, and we would like
20 to recall Mr. Patch.

21 HEARING OFFICER GEFTER: Okay. Mr.
22 Thompson, did you have any particular exhibits
23 that you wished to move into evidence?

24 MR. THOMPSON: The only exhibit in the
25 alternatives are portions of exhibit 1.

1 HEARING OFFICER GEFTER: All right,
2 we'll wait until the end of the entire set of
3 evidentiary hearings on that.

4 MR. THOMPSON: And, again, in the area
5 of facility design, as a matter of explanation, we
6 are presenting Mr. Patch to summarize the facility
7 design, but also would move -- we plan to move the
8 testimony and declaration of Mr. Worrell and Mr.
9 Atteberry in the same facility design area.

10 Mr. Patch has been previously sworn.

11 DIRECT EXAMINATION

12 BY MR. THOMPSON:

13 Q Mr. Patch, you're the same Mr. Patch
14 that has testimony in exhibit 38, is that correct?

15 A Yes.

16 Q And with regard to facility design you
17 are here to sponsor portions of exhibit 1,
18 applicant's AFC, specifically sections 3.7, 3.9
19 and appendices A through H, L and R, is that
20 correct?

21 A Yes.

22 Q And as part of facility design,
23 applicant has submitted prepared testimony along
24 with a rÇsumÇ and a declaration by Mr. Eric
25 Worrell and Mr. Jeffery Atteberry. Have you seen

1 those prepared testimonies?

2 A Yes, I have.

3 Q And both of those individuals, Mr.
4 Worrell and Mr. Atteberry, are employed by Patch,
5 Incorporated?

6 A Yes, they are.

7 Q And did you supervise the work that Mr.
8 Worrell and Mr. Atteberry performed in the area of
9 facility design?

10 A Yes, I did.

11 Q Thank you. Would you please summarize
12 your facility design testimony?

13 A Certainly. Initially we addressed the
14 overall engineering support that was provided with
15 the general arrangements and the connections to
16 the various utilities that support the plant.

17 In the areas of the facility design we
18 also have created more specifics and more details
19 in terms of the major equipment and significant
20 structures associated with the plant.

21 We've also tried to identify what the
22 locations and routings would be for the
23 transmission line as it exits the switchyard and
24 connects to the Pastoria substation; the 11.6 mile
25 gasline as it exits the northeast corner of the

1 plant; and moves along Tejon property up to the
2 final connection to the Kern/Mojave pipeline. As
3 well as the connection to the 14-G line that is
4 provided by Wheeler Ridge/Maricopa, which provide
5 the makeup water supply into the plant.

6 Q Now, Mr. Patch, the next two major topic
7 areas are reliability and efficiency. To what
8 extent did your design take into account
9 reliability and efficiency, other items such as
10 technology that is in use, and elements such as
11 that?

12 A For power plant reliability, in addition
13 to identifying the major pieces of equipment
14 associated with the plant, there is also a list
15 and a table that was presented in the AFC that
16 addresses those pieces of equipment which, with a
17 single failure, would not reduce the plant's power
18 output and/or potentially take the plant off-line.

19 So there is a table that's created that
20 simply looks at major equipment redundancies that
21 would be provided as part of the plant
22 construction.

23 HEARING OFFICER GEFTER: Would you
24 specify what table that is? Or, if you don't have
25 it in front of you now let me know later during

1 this hearing.

2 MR. PATCH: I can -- during a break, I
3 can --

4 HEARING OFFICER GEFTER: Yes, that would
5 be fine. We can do it later. Why don't you just
6 go on.

7 MR. THOMPSON: Okay.

8 BY MR. THOMPSON:

9 Q Finally, Mr. Patch, in the laws,
10 ordinances, regulations and standards, LORS area,
11 if we turn to that we see a number of design
12 standards by various agencies and entities.

13 Were those standards selected by you or
14 is it fair to say that the facility design is
15 appropriate and in keeping with those design
16 standards found in the laws, ordinances,
17 regulations and standards?

18 A Yes. The design basis for the plant
19 will follow all of the established engineering
20 standards and codes, as well as primarily the
21 California Building Code, currently the '98
22 edition.

23 Q Finally, Mr. Patch, you mentioned the
24 '98 edition of the Uniform Building Code, will
25 that be the UBC that the project will utilize?

1 A Yes. The project definition design
2 loads will be based on the California Building
3 Code, 1998, which is a derivative evolved with the
4 California exceptions, taken from the UBC '97
5 code.

6 MR. THOMPSON: Thank you very much. Mr.
7 Patch is tendered for cross-examination. And at
8 the end of this I would move the testimony of Mr.
9 Worrell and Mr. Atteberry into the record as part
10 of facility design.

11 HEARING OFFICER GEFTER: Okay. The
12 testimony of Mr. Worrell and Mr. Atteberry, is
13 that part of exhibit 38?

14 MR. THOMPSON: It is.

15 HEARING OFFICER GEFTER: All right.
16 Could you wait until we get to the end of all of
17 your testimony, and then move the entire document
18 into evidence?

19 MR. THOMPSON: Yes, that seems more
20 appropriate and we will do that.

21 HEARING OFFICER GEFTER: Does staff have
22 questions of the witness?

23 MR. RATLIFF: No.

24 HEARING OFFICER GEFTER: Okay. Do
25 either of the intervenors have questions of the

1 witness?

2 DR. UNGER: No.

3 HEARING OFFICER GEFTER: All right.

4 EXAMINATION

5 BY HEARING OFFICER GEFTER:

6 Q Mr. Patch, staff has proposed condition
7 of certification GEN-1, which I don't expect you
8 would remember it off the top of your head, --

9 A Right.

10 Q -- but basically it refers to the 1998
11 California Building Code. And I would like to
12 know whether applicant has any objection to adding
13 the language that is in the text which says, or
14 the most recently adopted version of the CBC or
15 its applicable successor provisions, because it's
16 unclear whether, by the time you actually get to
17 your CBO with your design plans, whether the '98
18 CBC will still be in effect. So it's just a
19 question of adding that language to the condition.

20 A Yes. Based on the process and the
21 schedule that's contained in the AFC, the
22 engineering begins after final decision. And I
23 thought we had understood that the code, the
24 applicable codes, CBC being one of maybe 50, would
25 be the codes in effect at the time of the final

1 decision.

2 Q All right.

3 MR. RATLIFF: I might add that the next
4 building standards code revisions won't be in
5 effect for at least a year and a half.

6 They have to be adopted, and then they
7 have to be approved by the Building Standards
8 Commission. They go through a process where they
9 have to be published; it takes several months for
10 that to occur.

11 And then after they're published it
12 takes six months before they're effective. So, I
13 don't think you're going to see an effective date
14 before 2002.

15 MR. PATCH: For the CBC.

16 MR. RATLIFF: Yes, the California
17 Building Code, which is California's version of
18 the Uniform Building Code.

19 MR. PATCH: Right.

20 BY HEARING OFFICER GEFTER:

21 Q Well, what my question goes to is
22 whether the applicant would object to adding some
23 language that would also indicate that we're
24 referring to the most recently adopted version of
25 the CBC, or the version that is in effect at the

1 time that your plans are being approved by the
2 CBO.

3 A No objection.

4 Q All right. There's another condition,
5 too, which is GEN-5, which again I don't expect
6 you to have memorized it, but it refers to the
7 various engineers that are required to put
8 together your plan that is eventually signed off
9 by the CBO, and it refers to a soil engineer to
10 draft an engineering geology report.

11 Now, this section, GEN-5, is also
12 reflected in condition GEO-2, which refers to the
13 geotechnical report. And I think that the timing
14 is a bit off in terms of when the report is due.

15 And so would the applicant have any
16 objection to us, the Committee, making those
17 sections consistent? That would be the only
18 question, in terms of time for submitting the
19 report.

20 I believe it's a 30 days under GEN-2,
21 I'm sorry, GEN-5; and it may be something like 60
22 days or something like that under GEO-2. So we
23 would try to make it consistent in both sections.

24 A Yes.

25 Q I just, for the record, make sure you

1 have no objection to that?

2 A There would be no objection.

3 Q All right.

4 HEARING OFFICER GEFTER: Are there any
5 further questions of the witness? The witness may
6 be excused.

7 Off the record.

8 (Off the record.)

9 HEARING OFFICER GEFTER: Mr. Thompson,
10 do you have a further question on facility design?

11 MR. THOMPSON: Yes, thank you, Ms.
12 Gefter.

13 REDIRECT EXAMINATION

14 BY MR. THOMPSON:

15 Q Mr. Patch, prior to break Ms. Gefter
16 asked you a question, or you were explaining in
17 response to a question, about equipment redundancy
18 and a chart that you made reference to.

19 Have you been able to pinpoint that
20 chart with any greater precision?

21 A Yes, we have. Section 4 of the AFC, the
22 originally filed AFC, table 4.3-1. The title of
23 that table is major equipment redundancy. It
24 identifies major pieces of equipment which would
25 be redundant, again inconsistent with a non-single

1 outage maintaining plant operations.

2 HEARING OFFICER GEFTER: Thank you. All
3 right. Is there any other testimony on facility
4 design, at this point? Are there any further
5 questions?

6 DR. UNGER: No.

7 MS. GRIFFIN: No.

8 HEARING OFFICER GEFTER: All right, the
9 witness may be excused on that topic.

10 The next topics that we had listed were
11 power plant reliability and efficiency. As
12 Commissioner Moore had indicated to us previously,
13 he would like to be present for testimony on those
14 topics, and since he has not arrived yet we're
15 going to skip over those topics and move on to
16 transmission system engineering. And return to
17 the topics of reliability and efficiency when
18 Commissioner Moore gets here.

19 Applicant, are you prepared on
20 transmission system engineering?

21 MR. THOMPSON: We are. Applicant would
22 like to recall Mr. Joe Patch. Mr. Patch, you have
23 been previously sworn.

24 //

25 //

1 DIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q Would you state your name for the
4 record?

5 A It's Joe Patch.

6 Q And in the area of transmission system
7 engineering, applicant would like to present the
8 testimony along with the rÇsumÇ and declaration of
9 a Mr. Anil Kar.

10 Does Mr. Kar work for your company?

11 A Yes, he does.

12 Q And what duties does he perform for
13 Patch, Incorporated?

14 A He is an electrical engineer.

15 Q And in the transmission system
16 engineering area Mr. Kar is sponsoring in his
17 prepared testimony the transmission facilities
18 section of the AFC exhibit 1, section 3.6, and
19 appendix O to exhibit 1, and exhibits 4 and 5.

20 Are you familiar with his testimony and
21 the exhibits that he is sponsoring?

22 A Yes, I am.

23 Q Would you very briefly describe the work
24 that Mr. Kar did and your involvement in
25 supervising that work, if indeed you did do that?

1 A The primary function and the focus of
2 the transmission system engineering is to define
3 the electrical portions of the plant, primarily
4 the plant switchyard, based on the location of the
5 plant or the connection to the SCE substation at
6 Pastoria.

7 The switchyard is designed as a 230 kV
8 system with a 230 kV transmission system. The
9 location routing of the transmission system from
10 the plant switchyard to the Pastoria substation is
11 to the west of and parallels the existing
12 transmission systems.

13 The tower spacing associated with those,
14 with the new transmission system is parallel and
15 opposite with the existing towers that currently
16 are part of the SCE transmission system, as well
17 as the tower height consistent with the existing
18 system.

19 All of this is described in the single
20 line diagrams that were developed for the project.

21 Q Finally, Mr. Patch, would you please
22 explain the role of Southern California Edison
23 Company in the preparation of this material?

24 A Yes, the technical information required
25 from the application to request a system impact

1 study; was developed. We provided that
2 information to Southern California Edison, based
3 on their models, their basecases in years actually
4 provided.

5 The system impact study which has been,
6 at this point, issued on a technical basis the
7 cost associated with are still yet to be
8 determined.

9 That has been submitted to both ISO and
10 to DWR. And ISO has come back with a response
11 that they have reviewed and agree with the system
12 impact study as prepared and the conclusions
13 reached by Southern California Ed.

14 Q Thank you very much, Mr. Patch.

15 MR. THOMPSON: Recognizing that the
16 primary responsibility for system impact
17 engineering lies with Mr. Kar, applicant would
18 like to present Mr. Patch for cross-examination
19 with regard to his oversight role in preparation
20 of this section, any cross-examination.

21 HEARING OFFICER GEFTER: Staff?

22 MR. RATLIFF: If I could ask some
23 clarifying questions.

24 //

25 //

1 CROSS-EXAMINATION

2 BY MR. RATLIFF:

3 Q Mr. Patch, can you describe how the
4 remedial action scheme will work for Pastoria?

5 A The specifics the remedial action scheme
6 developed as part of the Edison system impact
7 study. To my knowledge the remedial action scheme
8 will allow Pastoria plant to, in case of default,
9 come off line.

10 The current system impact study has
11 identified that the plant capacities under normal
12 conditions and normal operating conditions satisfy
13 the existing transmission system will accommodate
14 the plant's output.

15 Q How does the -- when we talk about a
16 remedial action scheme we're talking about
17 generation going off line, is that right, or being
18 retarded --

19 A In this case --

20 Q -- to some degree?

21 A In this case that's true, yes.

22 Q How does that occur with Pastoria, if it
23 should occur? Is it from a telephone call or some
24 other method?

25 MR. THOMPSON: Could we have 30 seconds?

1 HEARING OFFICER GEFTER: Yes.

2 (Off the record.)

3 HEARING OFFICER GEFTER: If you would
4 respond to Mr. Ratliff's question.

5 MR. PATCH: If I could respond. The
6 remedial action scheme as it's designed currently
7 and as it's constructed, and as has been reviewed
8 by ISO, allows ISO to control the plant and the
9 plant operations.

10 IF there is a need, for any reason, to
11 take the plant off or implement the RAS scheme,
12 that would be done directly by and under the
13 control of ISO.

14 BY MR. RATLIFF:

15 Q I see. And has any decision about how
16 that physically occurs been made yet, or is that
17 something that would be made subsequently?

18 A In terms of the communication --

19 Q Yes.

20 A -- between the plant and ISO, from past
21 other work that we have done, it's done both
22 telemetry and hard-wired. There is usually a
23 redundant connection. There are very specific
24 requirements and controls that are established by
25 ISO at the interface, the control interface of the

1 plant to ISO.

2 Those would be part of the plant; that
3 would be part of the Pastoria facility, which
4 would be consistent with the ISO requirements for
5 control of the plant.

6 Q I realize you're testifying at least in
7 part for one of your subordinates, but have you
8 been aware of any new language that would be added
9 to the conditions to replace staff condition TSE-
10 1H. If not, perhaps Mr. Wehn or somebody else is
11 the proper witness for that.

12 But, my understanding is that there's
13 been some negotiation between the Cal-ISO and the
14 applicant over some replacement language for staff
15 condition TSE-1H.

16 MR. THOMPSON: Let me jump in here, if I
17 may, Mr. Ratliff. The last we had heard was that
18 there was some replacement language that the ISO
19 was going to transmit to the staff. Now the
20 weekend kind of intervened there. And we're
21 hoping that Mr. Hesters has been able to download
22 and accept that language. And if he accepts it, I
23 think that our discussions with ISO came to an
24 agreement on the language, and if it gets to staff
25 and they agree, I think we have a new two

1 sentences, if you will.

2 MR. RATLIFF: Okay, then it sounds like
3 what we need to do then is for staff to basically
4 present that language and indicate how the
5 condition would change based on the discussions
6 between staff and the ISO and the applicant. And
7 what they are actually trying to achieve with that
8 condition.

9 So, I guess when you think the time is
10 appropriate we can put that on the record.

11 HEARING OFFICER GEFTER: All right,
12 well, we can hold the record open on transmission
13 system engineering to allow the parties to draft
14 the additional language.

15 MR. RATLIFF: The language is actually
16 drafted, as I understand it. It's -- I know Mr.
17 Hesters has agreed to the language, and I thought
18 this is the time to put it on. But it sounds
19 like -- we don't have Mr. Hesters here, obviously.
20 The Cal-ISO is not attending.

21 HEARING OFFICER GEFTER: Mr. Hesters is
22 staff's witness.

23 MR. RATLIFF: That's right. But I can
24 provide you with the language. I just don't have
25 copies of it. I can read it into the record if

1 you want.

2 PRESIDING MEMBER LAURIE: When could you
3 get that?

4 MR. RATLIFF: I don't know. If I -- I
5 have the, essentially the email communication --

6 PRESIDING MEMBER LAURIE: Could you have
7 it --

8 MR. RATLIFF: -- that I received Friday
9 afternoon from him, and I can have it --

10 PRESIDING MEMBER LAURIE: Could you get
11 a fax of it by close of business tomorrow?

12 MR. RATLIFF: Sure.

13 PRESIDING MEMBER LAURIE: Okay, well,
14 then that's fine. We'll just keep this portion of
15 the record open, and allow you that opportunity
16 for further discussion.

17 MR. RATLIFF: Okay.

18 HEARING OFFICER GEFTER: Do you have any
19 other questions at this point, Mr. Ratliff?

20 MR. RATLIFF: No.

21 HEARING OFFICER GEFTER: Do any of the
22 intervenors have any questions on the topic?

23 DR. UNGER: No.

24 MS. GRIFFIN: I do. Mary Griffin with
25 Kern Audubon.

1 CROSS-EXAMINATION

2 BY MS. GRIFFIN:

3 Q Briefly, Mr. Patch, you mentioned a
4 study by Southern California Edison on the
5 transmission lines in California?

6 A Yes.

7 Q What was that -- I can barely hear you,
8 could you repeat that?

9 A Certainly. There is a requirement to
10 the development of the application, there is
11 what's called a system impact study. A system
12 impact study is provided to the project by
13 Southern California Edison.

14 Q Okay, now have you ploughed through
15 this, yourself, or --

16 A I've read some of the summaries, yes.

17 Q Have you formed any opinion as to the
18 reliability or the modernness of the transmission
19 lines in California?

20 A The basis of the study is a technical
21 analysis of the ability of the system to carry the
22 loads, and the resultant loads, whether they be
23 short-circuit duties or whether they be transient
24 stability analysis or whether it's just the
25 thermal issues on the conductors, themselves, it

1 is a technical study.

2 And Southern California Edison has done
3 that. And that report has been produced as the
4 first portion of the system impact study, which
5 again has been distributed to and reviewed by ISO,
6 as well as Edison.

7 Q In layman's terms, are we in great
8 shape, so-so, or --

9 A Very good shape.

10 Q The Southern California says we're in
11 good shape? The transmission lines are in good
12 shape?

13 MR. THOMPSON: If I may, I fear that we
14 are talking but not communicating. The question I
15 think I heard you ask is was whether or not
16 Southern California Edison looked at the condition
17 of the transmission system. And what I think Mr.
18 Patch responded was the study looked at Edison's
19 ability to accept the power from this facility.

20 MS. GRIFFIN: So it's much narrower.

21 MR. THOMPSON: I think it's much
22 narrower, and if I could add, Mr. Patch, tell me
23 whether I'm right or wrong and explain what the
24 study actually did, I think it may help.

25 MR. PATCH: I apologize, then, I

1 certainly didn't mean to mislead. Is that the
2 scope of the study of the system impact study
3 looks to determine how and if the system, the
4 transmission system, itself, the wires, the
5 switchyards, the circuit breakers, the relaying
6 schemes, as the power flows wherever the load will
7 take that power, that the system, in fact, has the
8 capacity and the capability to provide a pathway
9 such that the power can be taken to the different
10 places.

11 To the extent that can be done, then, in
12 the analysis that is prepared by Southern
13 California Edison they reached certain
14 conclusions.

15 In this case the conclusion is that the
16 pathways are available, and that the system is
17 available. That there are certain things that
18 will need to be done, but that the current system,
19 as it exists, can be either taken as-is and/or
20 with some modifications because of circuit breaker
21 duty be developed such that it will accept the
22 power. And then it will be part of, then, the
23 overall transmission system, if that's may be a
24 little more directly.

25 MS. GRIFFIN: Okay, thank you.

1 EXAMINATION

2 BY HEARING OFFICER GEFTER:

3 Q Mr. Patch, one of the things that's a
4 bit confusing about the curtailment aspect of the
5 RAS is that at least staff reports in its FSA that
6 there is a Big Creek RAS that sets the reserve
7 requirement, and then the Pastoria project would
8 be required to reduce its output by 25 megawatts.

9 Is this part of what we were talking
10 about earlier, or is this --

11 A Yes.

12 Q -- a separate --

13 A No, this is part of what we talked about
14 earlier, and I would suggest that maybe we keep
15 that open, we bring that in, as soon as we
16 readdress it with the staff.

17 MR. THOMPSON: What I would like to do,
18 with the Committee's approval, is get copies made
19 of the email that we referred to earlier that has
20 the language in it, and this afternoon recall Mr.
21 Patch and begin again the colloquy over that
22 language if that's acceptable to staff and the
23 Committee.

24 HEARING OFFICER GEFTER: Thank you.

25 Staff, there was a submittal from Cal-ISO, the

1 testimony of Catalin Micsa, which we have
2 identified as exhibit 37.

3 Is staff sponsoring that testimony on
4 this topic?

5 MR. RATLIFF: Yes.

6 HEARING OFFICER GEFTER: Do you wish to
7 move it into the record?

8 MR. RATLIFF: If this is the appropriate
9 time, yes.

10 HEARING OFFICER GEFTER: Or would it be
11 more appropriate after this afternoon when we have
12 further clarification?

13 MR. RATLIFF: Either one would be fine,
14 but I need to find a copy of the testimony --

15 HEARING OFFICER GEFTER: A copy of the
16 testimony of Mr. Micsa for Cal-ISO was served on
17 the parties and I would like to know whether the
18 intervenors have received a copy of that. Have
19 you seen that, Ms. Griffin? Is that a yes?

20 MS. GRIFFIN: Yes.

21 HEARING OFFICER GEFTER: Dr. Unger?

22 DR. UNGER: I don't remember but we can
23 go on whether I know about it or not.

24 HEARING OFFICER GEFTER: Okay. Well, it
25 was sent to you, I believe.

1 DR. UNGER: I don't think it's something
2 that I'm going to object to.

3 HEARING OFFICER GEFTER: All right.

4 MR. RATLIFF: The testimony portion is
5 that from Mr. Catalin M. Micsa. It's titled
6 transmission system reliability in the connection
7 of the Pastoria Power Project. The date at the
8 bottom of the page is September 6th on the copy
9 that I have.

10 HEARING OFFICER GEFTER: It's identified
11 exhibit 37. Does staff wish to move that into the
12 record?

13 MR. RATLIFF: Yes, please.

14 HEARING OFFICER GEFTER: Is there any
15 objection from the applicant?

16 MR. THOMPSON: None.

17 HEARING OFFICER GEFTER: Any objection
18 from either of the intervenors?

19 DR. UNGER: No.

20 HEARING OFFICER GEFTER: All right.
21 Exhibit 37 is now part of the record. And we will
22 hold open the topic on transmission system
23 engineering until later today when the staff and
24 applicant can provide us with additional language
25 to conditions of certification 1H.

1 The next topic is transmission line
2 safety and nuisance. Is the applicant ready to
3 proceed with that?

4 MR. THOMPSON: We are. Again, we would
5 like to recall Mr. Patch in the area of
6 transmission line safety and nuisance. Mr. Patch
7 has been previously sworn.

8 DIRECT EXAMINATION

9 BY MR. THOMPSON:

10 Q Mr. Patch, in your capacity as lead
11 engineering support for the project, was the work
12 performed by Mr. Anil Kar in the area of
13 transmission line safety and nuisance performed
14 under your direction?

15 A Yes, it was.

16 Q And as part of exhibit 38 Mr. Kar has
17 submitted testimony by declaration, also,
18 including the area of transmission line safety and
19 nuisance where he sponsors a portion of exhibit 1,
20 the AFC, notably section 4.2 and appendix P to the
21 AFC, is that correct?

22 A Yes.

23 Q Would you please summarize your
24 involvement in the supervision of the area of
25 transmission line safety and nuisance as performed

1 by Mr. Kar?

2 A I reviewed the analysis that had been
3 performed. The transmission line safety and
4 nuisance issue dealt with the standard issues of
5 electromagnetic forces and electric forces. And
6 the analysis that was prepared looked at not only
7 the transmission line, as it would be provided to
8 support the Pastoria facility connection into the
9 Pastoria substation, but the existing Edison lines
10 that are in the same corridor that we parallel.

11 And the conclusion of that study is that
12 we're significantly below the standards that have
13 been set, not by California, since California does
14 not have a standard, but by other states that do
15 have such standards.

16 Q Thank you. And, indeed, you discuss
17 some of that in your prepared testimony, which is
18 part of exhibit 38, is that correct?

19 A Yes.

20 Q Have you had an opportunity to review
21 staff's supplemental testimony identified as
22 exhibit 36 to this proceeding, notably the area of
23 transmission line safety and nuisance submitted by
24 Mr. Obed Odoemelam?

25 A Yes, I have.

1 Q And do you concur with the conclusions
2 reached by the staff witness?

3 A Yes, I do.

4 Q Thank you very much.

5 MR. THOMPSON: Mr. Patch is tendered for
6 cross-examination in the area of transmission line
7 safety and nuisance, and his role in the
8 preparation of those materials.

9 HEARING OFFICER GEFTER: Does staff have
10 any cross-examination of the witness?

11 MR. RATLIFF: No.

12 HEARING OFFICER GEFTER: Do the
13 intervenors have cross-examination?

14 DR. UNGER: No.

15 HEARING OFFICER GEFTER: Ms. Griffin, do
16 you have cross-examination of the witness on this
17 topic?

18 MS. GRIFFIN: Just briefly.

19 CROSS-EXAMINATION

20 BY MS. GRIFFIN:

21 Q Mr. Patch, over the years have you ever
22 worked with, or do you work with the wildlife
23 agencies on for protecting birds? The best ways
24 to design these lines to protect birds.

25 HEARING OFFICER GEFTER: Ms. Griffin,

1 that is a topic under biology section. But why
2 don't you get to your question on TLSN. Are you
3 concerned about bird mortalities?

4 MS. GRIFFIN: Yes.

5 HEARING OFFICER GEFTER: Okay, that
6 would be more appropriately addressed in the
7 biology section unless Mr. Patch can answer your
8 question on that topic.

9 PRESIDING MEMBER LAURIE: Well, I would
10 prefer to maintain it within the one section, so
11 we'd ask you --

12 MS. GRIFFIN: Yeah, I wasn't sure,
13 that's why I was asking him.

14 HEARING OFFICER GEFTER: Yes. Okay,
15 we'll certainly bring that question up again when
16 biology witnesses are here. That would be
17 tomorrow.

18 MS. GRIFFIN: Okay, thank you.

19 MR. THOMPSON: Ms. Griffin, to the
20 extent that there is an interface between biology
21 and transmission, Mr. Patch will be here tomorrow
22 when biology goes on, so he would be available in
23 case there are biology issues that go into his
24 area.

25 MS. GRIFFIN: Okay, thank you.

1 HEARING OFFICER GEFTER: Thank you.

2 Staff, in exhibit -- what we have identified as
3 exhibit 36, which is supplemental testimony filed
4 by staff, there was a section regarding TLSN and
5 the standards that exist in other states, in which
6 staff witness compared the figures for the
7 proposed project with what other states have.

8 And I don't know if you are familiar
9 with that, if you can indicate to us whether from
10 that testimony staff's position would be that the
11 project would fall to very low figures below the
12 other states standards.

13 MR. RATLIFF: Well, I think the
14 testimony speaks for itself. What it says is that
15 the project -- I think you're talking about EMF
16 levels at the transmission corridor boundary of
17 the right-of-way?

18 HEARING OFFICER GEFTER: Yes.

19 MR. RATLIFF: And those levels will be
20 far below those of any state standard. That was
21 the testimony of Dr. Odoemelum, so.

22 HEARING OFFICER GEFTER: All right. Are
23 there any other questions for Mr. Patch, or any
24 questions for staff?

25 Mr. Patch may be excused on this topic.

1 MR. THOMPSON: Thank you very much.

2 Applicant would like to call Ms. Jennifer Scholl.

3 Ms. Scholl has not been sworn.

4 HEARING OFFICER GEFTER: All right, and

5 we're moving on then to geology and paleontology.

6 Would the reporter please swear the witness.

7 Whereupon,

8 JENNIFER SCHOLL

9 was called as a witness herein, and after first
10 having been duly sworn, was examined and testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. THOMPSON:

14 Q Would you please state your name for the
15 record.

16 A Jennifer Scholl.

17 Q And by whom are you employed?

18 A URS Corporation.

19 Q And in what capacity?

20 A Project Manager.

21 Q You are project manager for the Pastoria
22 Energy Facility, is that correct?

23 A Yes, I am the project manager for the
24 environmental analysis portions of the Pastoria
25 Energy Facility.

1 Q And you are the same Jennifer Scholl
2 that submitted prepared testimony which is part of
3 what has now been identified as exhibit 38, is
4 that correct?

5 A Yes.

6 Q In your duties as project manager for
7 URS was the area of geology, paleontologic
8 resources one of the areas in which you
9 supervised?

10 A Yes.

11 Q And are you familiar with the work
12 performed by Mr. Goetz in the area -- correct my
13 pronunciation if you would -- in the area of
14 geology?

15 A Yes.

16 Q Would you please summarize your
17 activities in the supervision of the work prepared
18 by Mr. Goetz.

19 A In my management role in the geology
20 section I did two things, both, I peer reviewed
21 and reviewed his AFC section for consistency with
22 CEC regulations, and consistency with the rest of
23 the document.

24 As well I worked with Mr. Goetz and his
25 technical staff people in the preparation of the

1 geotechnical report, as well, which was used to
2 support the summary analysis -- or the analysis
3 that was included in section 5.3 of the AFC.

4 Q And am I correct that Mr. Goetz is
5 sponsoring a portion of exhibit 1, applicant's
6 AFC, notably section 5.3, and exhibit 7, which is
7 the geotech investigation?

8 A Yes.

9 MR. THOMPSON: Applicant would like to
10 tender Ms. Scholl for cross-examination with
11 regard to her role as supervisor of Mr. Goetz, who
12 submitted testimony in the area of geology.

13 HEARING OFFICER GEFTER: Does staff have
14 cross-examination?

15 MR. RATLIFF: No.

16 HEARING OFFICER GEFTER: Do the
17 intervenors have cross-examination?

18 DR. UNGER: No.

19 MS. GRIFFIN: Mary Griffin here for Kern
20 Audubon.

21 CROSS-EXAMINATION

22 BY MS. GRIFFIN:

23 Q Ms. Scholl, how many other projects have
24 you worked on in Kern County in the last few
25 years?

1 A This is the first project that I've
2 worked on in Kern County in the last few years.

3 Q Had people under you worked in Kern
4 County here and there on different kinds of
5 projects?

6 A Yes, my previous work, not with URS
7 Corporation, it's associated with Pacific Pipeline
8 Company, in a role with a contractor that was
9 working on the environmental work for the PUC.

10 But my role on this project is just
11 managing the Pastoria AFC. My staff has been
12 involved on other power plant cases in Kern County
13 including LaPaloma, as well as quite a few small
14 assignments with Caltrans on work, on road
15 improvement projects that required environmental
16 review in southern Kern County.

17 Q Well, I was -- when it came to the paleo
18 work I was struck by the lack of local input. And
19 at the meeting we had in Sacramento I gave you a
20 newsletter for the Monte Vista Museum --

21 A Um-hum.

22 Q -- of Natural History. Had you people
23 ever contacted them before, or have you contacted
24 them since?

25 A From the time of the prehearing

1 conference till today our task leader for
2 paleontological resources has not contacted them.
3 Although there is a list of resources at the end
4 of the AFC section that notes those resources that
5 were used to prepare the project.

6 In addition, the contractor that
7 prepared the paleontological resource section for
8 this project was the same contractor and the same
9 task leader for this issue area that conducted the
10 analysis on the LaPaloma project, as well. So
11 they have been doing this type of work within Kern
12 County over the last couple of years.

13 Q Do you have any personal knowledge of
14 them working with the people out at --

15 A I do --

16 Q -- Monte Vista Museum of Natural
17 History?

18 A I do not, but I could at the lunch break
19 confirm with our paleontologist and get back to
20 you later in the day or tomorrow.

21 PRESIDING MEMBER LAURIE: Well, let's --

22 MS. GRIFFIN: Okay, that's what I'm
23 interested in, is the local perspective, Mr.
24 Chairman. If it was -- it's here, and it's
25 available, and it's volunteer like Kern Audubon,

1 but those people are always glad to give some
2 input --

3 PRESIDING MEMBER LAURIE: So is your --

4 MS. GRIFFIN: -- and then see if any --

5 PRESIDING MEMBER LAURIE: -- is your
6 question whether or not anybody had made contact
7 with that organization?

8 MS. GRIFFIN: Yeah.

9 PRESIDING MEMBER LAURIE: Okay.

10 MS. GRIFFIN: Yes, Mr. Chairman.

11 PRESIDING MEMBER LAURIE: Thank you.

12 MS. GRIFFIN: Thank you, that's all I
13 have.

14 EXAMINATION

15 BY HEARING OFFICER GEFTER:

16 Q Ms. Scholl, regarding the geological
17 hazard section of the AFC there's a discussion on
18 seismic activity in the area. And the question is
19 whether -- there was earthquake, ground-shaking
20 that affected the Edmonston pumping plant several
21 years ago, and the question is whether the plant
22 had to be retrofitted for shaking, and whether the
23 new project, the Pastoria project is being
24 designed to deal with the potential shaking?

25 A In the geological -- in the geotechnical

1 report that was prepared for the project down-hole
2 seismic measurements were taken at the project
3 site in the location of the staff locations.

4 And that information will be folded into
5 the engineering design for the facility. And it
6 is expected that that, as well as using the CBC
7 codes, would bring it up to seismic standards for
8 the area.

9 HEARING OFFICER GEFTER: Are there
10 further questions of the witness? The witness may
11 be excused on this topic. Thank you.

12 MR. THOMPSON: Thank you, Ms. Scholl.
13 We would like to recall Ms. Scholl in the area of
14 paleontology. I'd note that it was included in
15 the same line item by the Committee, and I failed
16 to address them both together.

17 DIRECT EXAMINATION - Resumed

18 BY MR. THOMPSON:

19 Q The paleontology section of the AFC was
20 performed by Mr. Hatoff, is that correct?

21 A Yes, Mr. Hatoff performed the section
22 with the assistance of a subcontractor, Mr. David
23 Lawler.

24 Q And what was your role with regard to
25 the preparation of the paleontology material?

1 A My role was providing direction to Mr.
2 Hatoff to prepare a CEC compliant paleontological
3 resources section.

4 Q And Mr. Hatoff's testimony, along with
5 his sponsoring of the AFC section 5.8 and appendix
6 K, which has been identified as exhibit 1, is part
7 of exhibit 38 to this proceeding, is that correct?

8 A Correct.

9 MR. THOMPSON: Applicant would tender
10 Ms. Scholl in the area of her involvement in
11 supervision in the area of paleontology.

12 HEARING OFFICER GEFTER: Any questions?

13 MR. RATLIFF: No.

14 HEARING OFFICER GEFTER: From the
15 intervenors?

16 DR. UNGER: No.

17 MS. GRIFFIN: No.

18 HEARING OFFICER GEFTER: Thank you.

19 EXAMINATION

20 BY HEARING OFFICER GEFTER:

21 Q Is it applicant's intent that a
22 paleontologist be on the site during early stages
23 of excavation?

24 A The way that the draft outline for the
25 paleontological resources mitigation

1 implementation and monitoring plan suggests that
2 the paleontological monitor would be on site where
3 there are times when the project would be going
4 into areas that are sensitive paleontological
5 sites, or at anytime that the compliance manager
6 requests that they go out to be on site.

7 HEARING OFFICER GEFTER: Any other
8 questions of the witness?

9 Mr. Thompson, you had referred to
10 exhibit 7, the geotechnical report, and the
11 witness testified regarding that report. Do you
12 want to move that into the record?

13 MR. THOMPSON: Actually I was about
14 ready to ask. If you wanted those specific
15 exhibits, and I also -- I should have asked this
16 before transmission system engineering where we
17 referred to exhibits 4 and 5.

18 HEARING OFFICER GEFTER: Right.

19 MR. THOMPSON: Do you want for me to
20 move that at the same time I move exhibit 38,
21 which contains the testimony which refers to those
22 exhibits, or would you prefer them to be moved as
23 we complete the areas?

24 HEARING OFFICER GEFTER: With respect to
25 exhibit 4 and 5, let's hold that until we finish

1 transmission system engineering, --

2 MR. THOMPSON: Okay.

3 HEARING OFFICER GEFTER: -- because
4 we're waiting for further information on that
5 topic.

6 With respect to geology and
7 paleontology, it would make sense to move exhibit
8 7 at this time since we are talking about that
9 particular document.

10 MR. THOMPSON: Okay, applicant would
11 like to move the admission of exhibit 7 as
12 identified in this proceeding.

13 HEARING OFFICER GEFTER: Any objections,
14 staff?

15 MR. RATLIFF: No.

16 HEARING OFFICER GEFTER: Any objection,
17 intervenors?

18 DR. UNGER: No.

19 MS. GRIFFIN: No.

20 HEARING OFFICER GEFTER: Thank you.
21 Exhibit 7 is now moved into the record. Thank
22 you.

23 The next topic would be cultural
24 resources. One moment, please, let's go off the
25 record.

1 (Off the record.)

2 HEARING OFFICER GEFTER: Back on the
3 record.

4 MR. THOMPSON: Thank you. Ms. Scholl,
5 you remain under oath.

6 HEARING OFFICER GEFTER: Yes, we're
7 going forward on cultural resources.

8 DIRECT EXAMINATION

9 BY MR. THOMPSON:

10 Q In the area of cultural resources you
11 are designated as a witness. And am I correct
12 that your prepared testimony is part of exhibit 38
13 to this proceeding?

14 A Yes.

15 Q And if I were to ask you the questions
16 contained in that testimony would your responses
17 today under oath be the same?

18 A Yes.

19 Q And you adopt it as your own?

20 A Yes.

21 Q Would you please briefly describe the
22 oversight role that you performed with regard to
23 the cultural resources section?

24 A In my role as project manager for the
25 environmental, I provided direct supervision to

1 the cultural resources task leader, Brian Hatoff,
2 on his preparation of the cultural resources
3 section of the AFC, as well as the confidential
4 technical appendix for cultural resources.

5 In addition, I worked with Brian Hatoff
6 in his preparation of a cultural resources testing
7 plan, and then followed through with my
8 supervision of Mr. Hatoff through his
9 implementation of the cultural resources testing
10 plan.

11 I reviewed all of his material to insure
12 that it complied with CEC regulations and that it
13 was consistent with material in the rest of the
14 environmental portions of the AFC.

15 Q Thank you. Mr. Hatoff's testimony is
16 included in exhibit 38 along with his rÇsumÇ and a
17 declaration. And in that testimony Mr. Hatoff is
18 sponsoring exhibit 1, the cultural resources
19 portion of the AFC, section 5.7 and appendix J, as
20 well as exhibits 11, 12 and 22, is that correct?

21 A Correct, yes.

22 Q Are there any other, recognizing that a
23 great deal of the cultural material that has been
24 submitted is confidential, are there any other
25 documents or information that you would like to

1 submit to the Committee for the record?

2 A Yes. In response to questions from Mary
3 Griffin and from Susan Gefter, we prepared a
4 nonconfidential summary of our cultural resources
5 testing program survey results that I forwarded to
6 Mary by email yesterday, and am providing copies
7 here today.

8 And actually this discussion, there is
9 no map because the map of the sites is
10 confidential, but the discussion goes through the
11 sties that are located on the project as it is
12 proposed today, and it describes the types of
13 things that were found during the cultural testing
14 at each of those programs.

15 HEARING OFFICER GEFTER: Before you
16 proceed, Ms. Scholl, I want to identify this
17 document as exhibit 45, so that when we discuss it
18 we will be able to refer in the record to it.

19 And exhibit 45 is three pages of text
20 and a cover sheet. And the cover sheet is a copy
21 of an email message from Brian Hatoff to, I
22 believe, Ms. Griffin, is that correct?

23 MS. SCHOLL: It's from me to Mary
24 Griffin with the summary that Brian Hatoff
25 prepared attached.

1 HEARING OFFICER GEFTER: Thank you.

2 BY HEARING OFFICER GEFTER:

3 Q You may continue.

4 A So I thought it would be useful to
5 explain that this new exhibit 45 includes a
6 summary of our findings from the cultural testing
7 plan. It identifies those sites that we had
8 previously identified along the project site, and
9 the linear components. And it provides a summary
10 of both the Native American participation, because
11 we did have Native American monitors present
12 during our subsurface and excavation operations,
13 as well.

14 It identifies the different sites, what
15 was found, and how the testing occurred at each of
16 the sites. And this was what Mr. Hatoff felt was
17 what he could prepare as a nonconfidential piece
18 of information.

19 MR. THOMPSON: Thank you very much. I
20 would like to move the submission into evidence of
21 the exhibits 11, 12 and 22 of Mr. Hatoff, and then
22 I have some others sponsored by Ms. Scholl.

23 HEARING OFFICER GEFTER: Is there
24 objection to the admission of exhibits 11, 12, 22?
25 And also are you going to move 45 in, as well?

1 MR. THOMPSON: I will.

2 HEARING OFFICER GEFTER: So right now
3 we're talking about 11, 12 and 22. Any objection
4 to those exhibits being moved into the record?

5 MR. RATLIFF: No.

6 DR. UNGER: No.

7 HEARING OFFICER GEFTER: Thank you.

8 MR. THOMPSON: And, Ms. Scholl's
9 prepared testimony --

10 HEARING OFFICER GEFTER: Those --

11 MR. THOMPSON: Sorry.

12 HEARING OFFICER GEFTER: Those exhibits
13 are now moved into the record.

14 MR. THOMPSON: In Ms. Scholl's prepared
15 testimony she sponsors the following exhibits
16 which I would like to move into the record: 6,
17 13, 15, 21, 25 and the recently identified exhibit
18 45, which was distributed today.

19 HEARING OFFICER GEFTER: Any objection
20 to those documents being moved into the record?

21 MR. RATLIFF: No.

22 DR. UNGER: No.

23 HEARING OFFICER GEFTER: Okay, thank
24 you. So exhibit 6, 13, 15, 21, 25 and 45 are now
25 moved into the record.

1 MR. THOMPSON: Thank you very much.

2 PRESIDING MEMBER LAURIE: Mr. Thompson,
3 was it your intent to move in 44, which was that
4 four-page engineering drawing?

5 MR. THOMPSON: Yes, I thought I moved
6 that into the record.

7 PRESIDING MEMBER LAURIE: I know you
8 indicated your intent.

9 HEARING OFFICER GEFTER: Yes, he -- it
10 was --

11 PRESIDING MEMBER LAURIE: Okay, thank
12 you.

13 MR. THOMPSON: Ms. Scholl is tendered
14 for cross-examination in the area of cultural
15 resources.

16 HEARING OFFICER GEFTER: Does staff have
17 any cross-examination?

18 MR. RATLIFF: No.

19 DR. UNGER: Yes.

20 CROSS-EXAMINATION

21 BY DR. UNGER:

22 Q Since we're talking about cultural
23 resources, Ms. Scholl, and specifically the
24 cultural resources in and around the site of the
25 proposed Pastoria power plant, did you contact

1 people from this locality with specific knowledge
2 of the cultural resources at this site?

3 A Yes, as part of the cultural resources
4 evaluation, Mr. Hatoff initiated a Native American
5 Heritage Commission process for which he sent out
6 letters for the Native American Heritage
7 Commission who then contacts Native American
8 representatives that are within the project area.

9 Q Were these people that you contacted
10 about cultural resources the most likely
11 descendants of the Native Americans who lived in
12 the vicinity of the proposed Pastoria Energy
13 Facility?

14 A I don't know that answer to that
15 question without having Mr. Hatoff provide that
16 information. He would probably have to contact
17 the Commission.

18 Q Thank you. Are you aware that a member
19 of the Kitanemuk Tribe of Tejon Indians has
20 applied for recognition with the Bureau of Indian
21 Affairs and could be considered a local
22 representative of those people?

23 A I am not aware; Mr. Hatoff may have been
24 aware of that.

25 PRESIDING MEMBER LAURIE: The question

1 was are you aware. If you have no --

2 MS. SCHOLL: Okay.

3 PRESIDING MEMBER LAURIE: -- awareness,
4 then please so respond.

5 DR. UNGER: I think we need to ask some
6 questions of Mr. Hatoff.

7 HEARING OFFICER GEFTER: Perhaps at the
8 break Ms. Scholl can contact Mr. Hatoff and give
9 you that information after our lunch break.

10 PRESIDING MEMBER LAURIE: And what's the
11 question?

12 DR. UNGER: Are you aware that somebody
13 from the local tribe has applied for recognition
14 with BIA. And then we wanted to know exactly who
15 you'd worked with, who he did contact. And then I
16 have further questions which I can read off now,
17 if you wish.

18 (Pause.)

19 HEARING OFFICER GEFTER: Dr. Unger,
20 regarding the relevance of your questions that you
21 would like Mr. Hatoff to respond to, we want to
22 know whether you have any concerns about the
23 studies that were done on cultural resources and
24 what those particular concerns are.

25 DR. UNGER: My concerns, one of them is

1 that they didn't ask the right people. Another
2 one, which I'll be getting to, is we think that
3 there are errors in the record that should be
4 corrected.

5 Another concern I have, other than the
6 fact that I, for environmental and cultural
7 reasons, would like the project not to happen,
8 which I don't think I'll succeed in that, but
9 another concern I have is that probably they'll go
10 over the territory; they may find remains. So
11 then what do you do with them?

12 PRESIDING MEMBER LAURIE: Okay, well,
13 let me -- if you'd like to ask the question what
14 happens --

15 DR. UNGER: I will, that's what I'm
16 doing.

17 PRESIDING MEMBER LAURIE: Okay, well, do
18 you want to ask this witness?

19 DR. UNGER: Sure, I got lots of
20 questions.

21 PRESIDING MEMBER LAURIE: Okay, go
22 ahead.

23 DR. UNGER: All right.

24 BY DR. UNGER:

25 Q In your written testimony it mentions

1 Mr. Eugene Albeetry, Ms. Juanita Montes, and
2 Mr. Henry Montez, and Mr. Robert Gomez. Do any of
3 these workers have any financial interest in PEF?

4 A The individuals that you just mentioned,
5 as explained under Mr. Wehn's testimony, some of
6 them were hired as Native American monitors. But
7 there is no relationship between the PEF and these
8 individuals, other than the two days that they
9 participated in assisting and monitoring during
10 the cultural testing.

11 Q You said that they were hired as
12 monitors, for pay?

13 A That is my understanding.

14 Q Do they live on Tejon property at a
15 reduced rate?

16 A I don't know.

17 Q When we speak of them being paid
18 monitors, were or are they in any way employed or
19 financially compensated by Enron or Tejon?

20 A The only relationship that they had with
21 our work on this project was to serve as Native
22 American monitors during the cultural testing.

23 Q If we assume that Mr. Albeetry, Mr.
24 Montez, Ms. -- I'm not sure of the spelling
25 here -- anyway, the Montes, Montez and Mr. Gomez,

1 if we assume that they were paid monitors, and
2 some of whom live on the Tejon property, and who
3 are not members of the local tribe, do you think
4 that they can be unbiased reporters of indigenous
5 cultural impacts?

6 A I can't answer that question.

7 Q Do you have a professional opinion about
8 the propriety of monitoring of the relative
9 artifacts of one tribe by Native Americans of an
10 unrelated tribe who also have a financial interest
11 in the outcome of the monitoring?

12 PRESIDING MEMBER LAURIE: Excuse me,
13 you're --

14 DR. UNGER: Yeah, I caught it. I'm
15 going to strike the words, have a financial
16 interest. We can --

17 PRESIDING MEMBER LAURIE: Thank you,
18 sir.

19 DR. UNGER: -- discuss that and we'll
20 come back to that. You've made plans for that,
21 Commissioner. But let me ask it right.

22 BY DR. UNGER:

23 Q Do you have any professional opinion
24 about the propriety of monitoring of the relative
25 artifacts of one tribe by Native Americans of an

1 unrelated tribe?

2 A I don't have a professional opinion;
3 however, I would like to point out that the
4 monitors that were used during this time were
5 those that were identified through our Native
6 American Heritage Commission letter response
7 course, which is a standard procedure when you
8 initiate contact doing a cultural survey.

9 And so these are the people that
10 responded to that. And from that, we found these
11 individuals.

12 So we were using a pool of people that
13 we felt came from the most appropriate pool that
14 we -- and through a standard procedure.

15 Q Would you please describe research you
16 did into local, that's Kern and L.A. County for
17 the most part, cultural resources?

18 A I'd like to refer you to our AFC
19 section, because I think it adequately addresses
20 your question.

21 Q Thank you. I didn't see in there a
22 reference to the handbook of Yokut Indians by
23 Frank F. Lotta. Is that because I didn't read it
24 properly?

25 A I have just pulled to the references

1 section and the handbook of Yokut Indians by
2 F. Lotta is a reference on page 5.7-39.

3 Q Okay, I'm sorry. And can you continue
4 to look in there, is an ethnic site survey for
5 California, the five views, written for the
6 California Department of Parks and Recreation in
7 there?

8 A There is information from the Office of
9 Historic Preservation and the National Park
10 Service. I would be happy to allow you to take a
11 look at this.

12 Q I would have been happy if I would have
13 looked at it more carefully before the hearing.
14 I'm going to reel off a couple of more references.
15 Again, with apologies that I should have prepared
16 better.

17 Did you use the material culture of the
18 Chumash Interaction Sphere by Hudson and
19 Blackburn?

20 A Based upon my quick review of the
21 resources that doesn't appear to be in here.

22 Q Okay.

23 A Although there were definitely local
24 contacts within Kern County that may have also
25 provided them that information, but it's not clear

1 from the records.

2 Q Okay. Do you know the cultural resource
3 works of John P. Harrington? Did you use the
4 notes of John P. Harrington?

5 A I don't know the answer to that question
6 but I can check with Mr. Hatoff and we can get
7 back to you.

8 Q Thank you. The same thing for A.L.
9 Krover -- I can repeat it more formally, if you
10 want?

11 A Oh, Krover?

12 Q Krover.

13 Q A.L. Krover, --

14 Q Yes.

15 A Handbook of the Indians of California,
16 Bureau of American Ethnology; it's cited as a
17 reference.

18 Q Thank you. Since you have indicated
19 that you're qualified to testify about cultural
20 resources in and around the center, I'd like to
21 show you a picture and ask you a couple of
22 questions about the picture. It's a very pretty
23 picture. Are you familiar with the picture of a
24 Kitanemuk Indian basket. You get the original.

25 HEARING OFFICER GEFTER: Do you have

1 copies, Dr. Unger?

2 DR. UNGER: Four or five.

3 HEARING OFFICER GEFTER: That would be
4 fine.

5 DR. UNGER: I ran out of ink.

6 HEARING OFFICER GEFTER: All right,
7 we're going to identify this picture for the
8 record.

9 DR. UNGER: I'm going to read the
10 identity.

11 HEARING OFFICER GEFTER: You have
12 copies.

13 MR. THOMPSON: If I could point out that
14 Mr. Hatoff is our expert witness. The proposal
15 was to submit Mr. Hatoff's testimony by
16 declaration, and there was no opposition. Ms.
17 Scholl is here and testifying with regard to her
18 role as oversight in the area.

19 And just keeping that in mind, we'll see
20 if she can answer the questions.

21 HEARING OFFICER GEFTER: Okay, let us --
22 Dr. Unger, --

23 DR. UNGER: Yes.

24 HEARING OFFICER GEFTER: -- we're going
25 to identify this as exhibit 46.

1 DR. UNGER: Thank you.

2 HEARING OFFICER GEFTER: And you need to
3 tell us what it is.

4 DR. UNGER: I will. It's a picture of a
5 basket made by the Kitanemuk Indians --

6 HEARING OFFICER GEFTER: Could you spell
7 that, please?

8 DR. UNGER: Yeah, K-i-t-a-n-e-m-u-k.

9 HEARING OFFICER GEFTER: Could you do
10 that again? K-i-t --

11 DR. UNGER: K-i-t-a -- it's on the back
12 of the picture. K-i-t -- not on the back of the
13 copies. K-i-t-a-n-e-m-u-k. And we got the
14 postcards from the Lowie Museum of Anthropology at
15 UC Berkeley.

16 BY DR. UNGER:

17 Q And my question about the basket has to
18 do with whether that came from the site of
19 Pastoria Energy Facility. And obviously I have no
20 idea of the answer, myself. But do you know?

21 A I would not know that --

22 Q Okay.

23 A -- answer. Perhaps Mr. Hatoff would.

24 Q And there will be a member of the public
25 along that is informed on this.

1 Okay, there are a number of
2 statements -- okay, you've reviewed the Energy
3 Commission Staff's testimony on cultural resources
4 as expressed in the final staff assessment?

5 A Yes.

6 Q Thank you. Do you agree with the final
7 staff assessment statements and conclusions on the
8 topic of cultural resources?

9 A Yes.

10 Q Do you agree with the FSA's statement on
11 page 277 under ethnographic background where it
12 says the environment supported a varied diet
13 including fish, water fowl, plants such as tule,
14 roots, seeds, shellfish, rabbits, and to a lesser
15 degree than elsewhere in California, acorns from
16 the foothills of the Tehachapi Mountains?

17 A I believe that that is consistent with
18 the discussion that's in our section, as well,
19 under natural history.

20 Q Okay. Here's another statement, do you
21 agree with this one? The Yokuts in the project
22 area were known variously as the Youlumne, Tejones
23 or Talinen?

24 A On 5.7-7 of the AFC there's a discussion
25 of Yokuts in the project area, and that is a

1 statement there that it was occupied by those
2 individuals.

3 Q Were they groups or individuals?

4 A The group was settled at and locally
5 associated with a village situated on the Paseo
6 Creek known as Tinliu, and that's described in
7 this section. This is from the AFC, itself.

8 Q Okay. I take it that these three names
9 I just read are not individuals, they're groups or
10 villages, is that correct?

11 A I would direct your question to the AFC,
12 itself, and the discussion of natural history of
13 the area for which there's a fairly lengthy
14 discussion on the ethnography and the Yokuts and
15 the Yokuts in the project area, and those terms
16 are described there.

17 Q Okay. Do you agree that the Tejon
18 Rancheria was abandoned in 1859 and the population
19 was relocated to the Tule River Reservation, which
20 was established in 1873?

21 A I don't know the answer to that
22 question. I suspect from the chronology in this
23 section that it could be found in the AFC section,
24 itself.

25 Q The Kitanemuk or Aleklik group of

1 Chumash were said to have ranged widely across the
2 Tejon Ranch property from Castaic Lake through the
3 upper reaches of Pastoria and Tunis Creeks, with
4 occupation at the foot of the Grapevine and
5 possibly with the Yokuts and Tinliu. That's a
6 statement from the FSA, and do you agree with it?

7 A That statement that is in the FSA is
8 also described in section 5.7-7 of the AFC.

9 Q Okay. One more statement. It says the
10 Spanish did not undertake a settlement or found
11 missions in the interior valleys, and the
12 subsequent Mexican Government made only a few
13 grants in the valley during the 1880s -- 1830s.
14 Do you agree with that?

15 A That statement is consistent with the
16 discussion on page 5.7-7 and 5.7-8 of the AFC.

17 Q Okay. New topic. Based on your
18 knowledge of Native Americans, would you have the
19 opinion that Native Americans prefer that this
20 site not be disturbed?

21 HEARING OFFICER GEFTER: That would be
22 your personal information, so you could speak from
23 your personal knowledge. If you don't have
24 personal knowledge, --

25 MS. SCHOLL: I mean my relationship with

1 managing this report was not as a cultural
2 resources specialist, only as the project manager.
3 I think that question would be more appropriate
4 for somebody who has the credentials of being a
5 cultural resources specialist in the area, and
6 that would be Mr. Hatoff.

7 BY DR. UNGER:

8 Q Thank you. Assuming it's not possible
9 to prevent disturbance, -- this is the same
10 question again. I'm asking again for your
11 personal opinion. What would Native American --
12 if you had to build PEF, what would Native
13 Americans suggest is the next best possible method
14 to deal with cultural treasures?

15 PRESIDING MEMBER LAURIE: Dr. Unger,
16 when you refer to the term Native Americans, are
17 you referring to the term in a generic sense, or
18 are you referring to the term of the Native
19 Americans in the immediate community? Are you
20 referring to the term Native Americans as those
21 that participated in the project?

22 DR. UNGER: I'm referring to any -- in
23 the generic term, Native Americans in general.
24 Not necessarily the particular people who live on
25 these particular 31 acres.

1 What, in general, would they suggest is
2 the next possible method to deal with cultural
3 treasures other than don't disturb them in the
4 first place?

5 PRESIDING MEMBER LAURIE: And are you
6 referring to practice in the industry and
7 historical experience?

8 DR. UNGER: No. I'm referring to what
9 would Native Americans think, not what we've done.
10 I know what I've done to Native Americans.

11 PRESIDING MEMBER LAURIE: Are you able
12 to answer that question?

13 MS. SCHOLL: Well, I'd like to provide a
14 general response, if that would be appropriate.

15 PRESIDING MEMBER LAURIE: Well, it is a
16 general question, it calls for a general response.

17 MS. SCHOLL: Okay, thank you. With
18 respect to your question, there's one thing I've
19 learned directly from Mr. Hatoff, and that is the
20 very first rule in cultural resources is you serve
21 to avoid any resources first. And that has been
22 the premise of our work on this project in
23 particular.

24 And the exhibit 45 that I have handed
25 out here explains the types of resources that were

1 encountered during our cultural testing of the
2 site. And those results have resulted in a couple
3 of things including the reroute of a gasline, of
4 the gasline linear to avoid resources.

5 To the best of our ability all the
6 cultural testing showed that the reroute was a
7 good option, and that we would expect to avoid
8 resources as a result of that.

9 In addition, both the AFC section and
10 then mirrored in the staff assessment are
11 conditions of certification or what were our
12 mitigation measures that prescribe further
13 mitigation that we would accept and comply with to
14 further avoid. And in the event that we encounter
15 something, it prescribes significant instructions
16 as to what we are to do.

17 In addition, the cultural resources
18 mitigation implementation and monitoring plan will
19 be prepared, and that will be reviewed by the
20 Energy Commission. And that will insure that in
21 the event that resources are encountered, that
22 they're catalogued and curated appropriately.

23 And the CEC Staff and I have had
24 discussion as referenced in the FSA about our
25 agreement that we will work together to insure

1 that the plan addresses all of those concerns.

2 BY DR. UNGER:

3 Q I appreciate that. My question is how
4 do you think Native Americans would want any
5 relics of their culture or any bones of their
6 ancestors treated? What would they want done with
7 the stuff if they found it?

8 A I believe that's a more appropriate
9 question to ask, perhaps, of the Native American
10 representative that is here today.

11 Q Okay. In your opinion would indigenous
12 peoples prefer that the most likely descendant
13 decide what to do with whatever was found?

14 A I don't know the answer to that
15 question, as well. It may be an appropriate
16 question to ask Dee Dominguez.

17 Q Yeah, I agree. Do you agree that Native
18 Americans --

19 DR. UNGER: My other questions are
20 similar to this one, and if I could just save us a
21 minute and let Dee address them. We've gone into
22 this enough. And I'm going to drop it here
23 because we're going to get somebody else that will
24 bring out whatever points I stumble over.

25 PRESIDING MEMBER LAURIE: Ms. Scholl,

1 Dr. Unger had earlier posed the inquiry what
2 happens during the course of construction when
3 remains are found. What does the law provide for
4 under those circumstances?

5 MS. SCHOLL: It is my understanding that
6 the mitigation measures that we have prescribed in
7 the AFC and that have been carried forward in the
8 FSA, are consistent with the state historic
9 preservation office guidelines.

10 As well, we are involved in direct
11 coordination with them, because we have Army Corps
12 of Engineers permitting. And it's my
13 understanding that the protocols, as recorded here
14 in the FSA that describe the types of things that
15 occur within the cultural resources monitoring and
16 mitigation plan are the types that explain what
17 happens in the event that you encounter something
18 during construction.

19 PRESIDING MEMBER LAURIE: Thank you.

20 HEARING OFFICER GEFTER: Are there
21 further questions of Ms. Scholl?

22 DR. UNGER: No, thank you.

23 HEARING OFFICER GEFTER: All right. Ms.
24 Scholl is excused.

25 Does staff have any comment or --

1 MR. RATLIFF: No.

2 HEARING OFFICER GEFTER: All right. Mr.
3 Unger, you indicated that you would like to
4 present Dee Dominguez?

5 DR. UNGER: Yes, I would.

6 HEARING OFFICER GEFTER: Okay, she is
7 present today. Maybe she can come forward to the
8 microphone and you can ask her to answer some of
9 the questions that you raised.

10 Ms. Dominguez would be testifying as a
11 lay witness. What I want to ask the parties first
12 of all is if they would agree to allow her to
13 testify, because her testimony had not been
14 submitted previously and there was a deadline of
15 September 8th.

16 Is there objection to that? Otherwise,
17 we would have her present public comment. How
18 would we like to do this?

19 PRESIDING MEMBER LAURIE: Well, first of
20 all, I do have a concern that the parties had
21 stipulated that this matter would be handled
22 pursuant to declaration.

23 I'm therefore concerned about the
24 addition of any other parties at this time -- any
25 additional sworn testimony.

1 It's certainly quite appropriate for any
2 member of the public to testify in a coordinated
3 manner -- not to testify, to offer public
4 statements in a coordinated manner. And I would
5 suggest that that be the proper manner in which
6 Ms. Dominguez could offer comments.

7 And that would include questions from
8 the parties if it would be helpful. Do any
9 parties have any objection to handling the matter
10 in that way?

11 MR. THOMPSON: We do not, and further,
12 we would offer to work with Ms Dominguez outside
13 of the context of this proceeding to answer any
14 inquiries that she may have and hopefully soothe
15 some of her fears.

16 HEARING OFFICER GEFTER: All right, so
17 with that in mind we'll proceed, and we won't
18 swear Ms. Dominguez, but we will proceed as if it
19 were public comment. However, Dr. Unger may ask
20 her questions, if you think that that would help
21 direct her comments to us.

22 DR. UNGER: Thank you.

23 Ms. Dominguez, what we'd like you to do
24 is tell us about yourself and about your contacts
25 with the people who probably -- or about your

1 descent from the people who most likely occupied
2 these 31 acres.

3 And then we'd like you to fill in the
4 blanks on the questions that I just asked. And if
5 you want to sit over here so you see them, so much
6 the better.

7 MS. DOMINGUEZ: Want me to sit over
8 there?

9 DR. UNGER: If you want. If you already
10 know what you want to say, and you don't want to
11 look at --

12 MS. DOMINGUEZ: Yeah, I think I --

13 DR. UNGER: -- this stuff, that's okay.

14 MS. DOMINGUEZ: I think I've got it
15 here.

16 PRESIDING MEMBER LAURIE: Well, the
17 challenge with that, Dr. Unger, is if Ms.
18 Dominguez goes over to read your questions then I
19 would suggest that all parties have the
20 opportunity to read what you have written. And
21 you probably do not want that.

22 DR. UNGER: Thank you, Commissioner.
23 Okay. She knows this stuff. Let's just let her
24 rip.

25 HEARING OFFICER GEFTER: All right,

1 please go ahead.

2 MS. DOMINGUEZ: Okay. My name is Dee
3 Dominguez and I'm the Chairwoman of the Kitanemuk
4 Tribe, the Tinoqui Chalola Council of Kitanemuk
5 and Yowlumne Tejon Indians.

6 And --

7 HEARING OFFICER GEFTER: All right, and
8 before we go further, if you could spell that for
9 our reporter that would be very helpful.

10 MS. DOMINGUEZ: Okay. T-i-n-o-q-u-i,
11 second word is C-h-a-l-o-l-a Council of
12 K-i-t-a-n-e-m-u-k and Y-o-w-l-u-m-n-e Tejon,
13 T-e-j-o-n Indians.

14 And I am here today -- we have some
15 concerns in our tribe, and I'm happy that you
16 allow me to be here to offer some comments, and
17 hopefully we can clarify some questions that Mr.
18 Unger has brought up.

19 What Mr. Unger was trying to refer to in
20 his last questions, and in the event hopefully
21 that doesn't happen, if any burials would be
22 encountered, is that if that were to happen, if
23 there have been steps taken to have some land set
24 aside to re-bury those individuals. That is very
25 important and very serious concern that we have,

1 as a tribe.

2 We are a landless tribe. We have no
3 place to re-inter them. And we would need a place
4 where they would be safe; they would not be re-dug
5 up by pot-hunters or another more building that
6 your parties or Tejon would take. So it is a big
7 concern for us.

8 We are a landless tribe. We are also an
9 unrecognized tribe, which is another reason why we
10 have a concern regarding the statements that are
11 on page 277 that Mr. Unger read on the
12 ethnographic background and historic background.

13 As an unrecognized tribe we have --

14 PRESIDING MEMBER LAURIE: Ms. Dominguez,
15 may I ask a question in that regard?

16 MS. DOMINGUEZ: Yes.

17 PRESIDING MEMBER LAURIE: In regards to
18 an incident where during the course of
19 construction remains might be found.

20 MS. DOMINGUEZ: Yes.

21 PRESIDING MEMBER LAURIE: Do you know
22 what process one goes through in order to identify
23 the remains to determine tribal jurisdiction? Is
24 that an issue?

25 So, let's say for purposes of discussion

1 that remains are found.

2 MS. DOMINGUEZ: Yes.

3 PRESIDING MEMBER LAURIE: How has it
4 been determined the identity of the remains, and
5 what tribe or what group should then proceed to
6 re-bury or perform other appropriate rites?

7 MS. DOMINGUEZ: Yes. That is why the
8 ethnographic background and historic background,
9 as it is written, is very important. In the event
10 remains are encountered, the monitor that's there
11 is responsible, and also the archeologist or
12 anthropologist on the project needs to stop work
13 immediately.

14 Then they will contact the coroner's
15 office, which is in Bakersfield. The coroner will
16 then make a determination whether there is
17 sufficient information that these graves are
18 Native American, or if they're other remains.

19 And in the event that they are Native
20 American, the coroner will then contact the Native
21 American Heritage Commission in Sacramento. He
22 will then contact the most likely descendants. He
23 has a list there.

24 I am one of those people that are on
25 that list. Now, to be on this list, it's not a

1 public list, individuals must provide genealogical
2 information regarding themselves that can identify
3 them to specific areas.

4 For instance, Tejon Ranch is the
5 Kitanemuk Tribe, and I have provided them with
6 that information. If a person is from a Yokuts
7 person from Elk Hills, Tuolumne, that information
8 is provided to the Native American Heritage
9 Commission.

10 And those individuals are then
11 identified as the most likely descendants of those
12 specific places.

13 And in the event that any remains are
14 encountered, then the executive secretary of the
15 Native American Heritage Commission goes through
16 his file, determines who that person is, and will
17 contact them. He does have a file there. It is
18 not a public information.

19 And the most likely descendant will then
20 go out there and determine what should be done, or
21 what can be done, and must work with the
22 landowner.

23 And here's where it becomes critical, is
24 our preference is to leave the remains in place.
25 If we have a problem, disagreement with the

1 landowner where he may be insistent on removing
2 them, then we have to determine the most likely
3 descendant, and the landowner, and perhaps the
4 Heritage Commission, whether that can be resolved,
5 or whether that will go into some kind of lawsuit.
6 The removal, and what will happen to the remains
7 when they are removed.

8 Our tribe also has objections to carbon
9 dating or doing DNA studies on remains. We wish
10 the remains to be left alone. It's unfortunate if
11 they are encountered. And we don't want any
12 further unhappiness to be caused to them.

13 But that is what the process is.
14 Earlier you mentioned the list that was provided
15 by the Heritage Commission. Letters were sent
16 out. That is not the list of Native American most
17 likely descendants. It is a general list of
18 Native Americans in a specific area who wish to
19 have information regarding areas that are being
20 developed. Because they are interested quite
21 often in receiving jobs as monitors.

22 The position as monitor is a position
23 that was created to enable the affected tribe to
24 be able to come on the property during excavations
25 or development to insure that the cultural

1 materials -- material culture and remains or
2 whatever is there are cared for properly. And
3 that everything goes by law. Nothing, you know,
4 bad happens there.

5 And if necessary that he would stop that
6 project for whatever necessity that there is. It
7 is not the -- the position of monitor is not a
8 position as a job, to be basically just hired from
9 job to job. It is a responsibility of the tribal
10 members to insure that the cultural sites are
11 protected. That's what that monitor position is.

12 And that list, again, that is provided
13 by the Heritage Commission, I'm very familiar with
14 it, is a general list. It is not a list of most
15 likely descendants, it's not a list that will tell
16 you that these are the Indian people that are
17 descendants from that area.

18 Our concern as a tribe is that the
19 monitors that are selected to be out there. It's
20 not enough that those people are Indian people.
21 They must be experienced. They must know what is
22 required of them on the site. What kind of
23 experience do they have. Have they had any formal
24 training in archeological or anthropological work.
25 Are they a part of the tribe. Are they

1 responsible to the tribe.

2 And any of the information, whatever
3 happens out on that site, they are the eyes and
4 ears of the tribe. And that person should be
5 going back to the tribe and letting them know what
6 is occurring there, or what has happened there,
7 what has been found.

8 And that is what the job of the monitor
9 is. So it's a very important position. And,
10 again, I would like to ask you that the people
11 that you bring out there, that they are
12 responsible, and hopefully that they are
13 descendant people from the area. And that the
14 position of monitor does not turn into a revenue-
15 producing position for an individual.

16 The ethnographic background material and
17 historic background, we have a concern with that
18 because as a petitioning tribe, I am doing the
19 research for our tribe, and have a lot of input on
20 how this petition is being brought together.

21 We have the responsibility to the
22 government to prove to them our lineage to the
23 tribe from as far back as we can. And that
24 includes historical documentation that supports
25 our position.

1 And when I read this ethnographic
2 background and historic background, there are --
3 some of the statements that are mentioned here
4 that Mr. Unger read to you, are somewhat
5 misleading, and really not clear.

6 And I would like to hope that we can
7 change that information. And I think it's in the
8 best interests of all of us that, in fact, that
9 that information should be as accurate as
10 possible.

11 PRESIDING MEMBER LAURIE: Do you have
12 specific references in the report that you feel
13 are misleading, that you would like to provide --

14 MS. DOMINGUEZ: Yes.

15 PRESIDING MEMBER LAURIE: -- alternative
16 comments on?

17 MS. DOMINGUEZ: Yes. And actually when
18 Mr. Unger provided you that photo of the basket,
19 basically that was to tell you --

20 HEARING OFFICER GEFTER: That's exhibit
21 46.

22 MS. DOMINGUEZ: -- exhibit 46 -- that
23 that is a specific basket that has been
24 specifically identified as a Kitanemuk basket.

25 And on page 277, the statement, it

1 states, the Kitanemuk or Lik-lik group of Chumash
2 were said to have ranged. So actually that says
3 three different separate tribes, it's not one
4 tribe. It's three separate tribes.

5 And there are several data that explain
6 that. And this particular book that he mentioned,
7 The Material Culture of the Chumash actually has a
8 map that identifies where those three separate
9 tribes originated from.

10 And so basically that's what that
11 picture was just to try to bring to your attention
12 that this is actually a separate and distinct
13 tribe.

14 So I would like to try to work with you
15 to try to improve some of the statements that are
16 in here.

17 HEARING OFFICER GEFTER: And you're
18 talking about the final staff assessment --

19 MS. DOMINGUEZ: Yes.

20 HEARING OFFICER GEFTER: -- at page 277?

21 MS. DOMINGUEZ: Yes.

22 HEARING OFFICER GEFTER: And you would
23 like to work with both the staff and the applicant
24 to --

25 MS. DOMINGUEZ: Yes.

1 HEARING OFFICER GEFTER: -- correct the
2 information that they have in here?

3 MS. DOMINGUEZ: Yes. I'd like to do
4 that. And like I said, I think that it would be,
5 it's in the best interests of all of us that that
6 report should be as accurate as far as the
7 cultural areas are concerned as possible.

8 When we submit this petition to the
9 federal government, our data, our supporting
10 documentation is going to have the information of
11 those references that he mentioned. And when we
12 submit our petition the general public can
13 comment. And I fear that with a document that's
14 existing like this, this is contradictory to the
15 information that we're going to be submitting to
16 the federal government. And in fact we're also
17 going to have our documentation.

18 So I would like to try to not have to
19 come to that point.

20 PRESIDING MEMBER LAURIE: Ms. Gefter,
21 what I'd be inclined to do, and you let me know if
22 you have a problem with it, we're only going to
23 have one record here.

24 Now, if sometime desire to be taken
25 between Ms. Dominguez and staff and the applicant,

1 and the applicant desires to modify its testimony
2 or offer additional testimony and amend the
3 previous testimony, then I don't have any problem
4 with that.

5 But, when we talk about working with
6 folks, at the end of the hearing tomorrow we're
7 going to close the record.

8 So, for your administrative purposes, do
9 you have any challenge leaving cultural resources
10 open today, and then closing it tomorrow and
11 determining whether or not the parties have had a
12 chance to have a chat, and the applicant or staff
13 seeks to amend their testimony?

14 HEARING OFFICER GEFTER: There would be
15 no problem as long as the parties all agree that
16 if the applicant, after speaking with Ms.
17 Dominguez, determines that you want to amend your
18 testimony, and you can provide us some language to
19 that effect, we certainly can hold the record open
20 to accept that language.

21 PRESIDING MEMBER LAURIE: Is that
22 something you'd like to do, Mr. Thompson?

23 MR. THOMPSON: Yes, I think that that
24 would be a good idea. Some of the -- obviously
25 there's a substantial amount of material that is

1 confidential, and we don't want to compromise
2 that, or get into that.

3 But we would be more than happy to work
4 with Ms. Dominguez and see if there is something
5 we can put in tomorrow. And holding the record
6 open until the end of tomorrow would be acceptable
7 to us.

8 HEARING OFFICER GEFTER: There's another
9 procedural issue which is the language that Ms.
10 Dominguez is looking at is actually staff's
11 language in the staff assessment.

12 So if the applicant wishes to amend your
13 testimony, part of that amendment would be to
14 request that staff, in turn, amend its testimony.
15 And so I would ask staff to be included in this
16 request, and perhaps you can come to us with a
17 joint amendment.

18 MR. RATLIFF: I'm trying to think of how
19 maybe the easiest way to do this. We don't even
20 have the staff witness here obviously. There's
21 nothing holy about the staff language.

22 I mean we're willing to stipulate that
23 if Ms. Dominguez wants to submit a new statement
24 which better characterizes the ethnographic
25 background of the peoples of that area, I think we

1 would stipulate to that, and allow it to be in the
2 PMPD that will be ultimately published.

3 And I think that would probably be
4 something that would serve your purpose in terms
5 of correcting the record. That will be the actual
6 decision that comes out with regard to this whole
7 affair.

8 And I think that's what -- you want to
9 see something that accurately states the --

10 MS. DOMINGUEZ: Yes, absolutely.

11 MR. RATLIFF: -- ethnographic background
12 of the --

13 MS. DOMINGUEZ: Right.

14 MR. RATLIFF: -- peoples involved? And
15 that might be easier than trying to get -- going
16 back and get our expert to try to figure it out,
17 himself. I mean we don't think that this is
18 probably going to change -- this particular issue
19 is going to change any of the conditions in our
20 FSA.

21 PRESIDING MEMBER LAURIE: Well, I do
22 understand Ms. Dominguez' concerns about how any
23 other public record might impact the process that
24 she's going through.

25 And so what you all may want to consider

1 is to determine whether or not you can agree upon
2 the stipulated statement, and have somebody offer
3 it as a witness. Ms. Scholl is already a witness
4 on the issue, and she can offer a stipulated
5 statement.

6 I would also suggest that you touch
7 bases with Mr. Hatoff. I don't know if he's
8 available or in the middle of the Gobi Desert, but
9 if at all possible, I would encourage that.

10 Would that be acceptable to you, Ms.
11 Dominguez?

12 MS. DOMINGUEZ: Yes.

13 HEARING OFFICER GEFTER: So we will hold
14 open the topic of cultural resources till tomorrow
15 afternoon. And then at the end of hearings on all
16 the other topics move to bring this additional
17 language if that is worked out among the parties.

18 So, at this point we have transmission
19 system engineering still open. And we have
20 cultural resources still open among the topics
21 that we've already heard today.

22 MR. THOMPSON: And reliability and
23 efficiency.

24 HEARING OFFICER GEFTER: Well,
25 reliability and efficiency we haven't even heard

1 yet today.

2 MR. THOMPSON: Right.

3 HEARING OFFICER GEFTER: We're still
4 pending those two topics.

5 Are there any further questions for Ms.
6 Dominguez? Do you have any further comment, or do
7 you feel like you've presented your comments to
8 us?

9 MS. DOMINGUEZ: No, I think I've pretty
10 well covered it, and thank you very much.

11 HEARING OFFICER GEFTER: Thank you very
12 much.

13 MR. THOMPSON: Thank you.

14 MR. RATLIFF: While we still have Ms.
15 Dominguez here, though, the issue came up of
16 monitors and who would be an appropriate monitor.
17 And I was wondering if she would be able to give
18 us suggestions.

19 PRESIDING MEMBER LAURIE: Yes, well, why
20 don't you folks talk about that when you have a
21 chance to chat.

22 HEARING OFFICER GEFTER: Okay, so, Ms.
23 Dominguez, could you stay around a bit --

24 MS. DOMINGUEZ: Yes.

25 HEARING OFFICER GEFTER: -- after we

1 take our lunch break, and speak with the parties?

2 MS. DOMINGUEZ: Yes.

3 HEARING OFFICER GEFTER: Thank you.

4 MS. DOMINGUEZ: Thank you.

5 HEARING OFFICER GEFTER: We're going to
6 go off the record for lunch.

7 (Whereupon, at 12:30 p.m., the hearing
8 was adjourned, to reconvene at 1:30
9 p.m., this same day.)

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1 AFTERNOON SESSION

2 1:30 p.m.

3 PRESIDING MEMBER LAURIE: Ladies and
4 gentlemen, the hearing on Pastoria Energy Facility
5 is now reconvened.

6 For the record I'd like to note the
7 presence of Commissioner Doctor Michal Moore, and
8 his Advisor Melissa Jones.

9 As the first order of business we will
10 go back and attend to the issues of power plant
11 reliability and power plant efficiency. Dr.
12 Moore, please feel free to relieve yourself of
13 your jacket and your tie.

14 COMMISSIONER MOORE: Good, I will.

15 PRESIDING MEMBER LAURIE: Thank you.

16 Ms. Gefter.

17 HEARING OFFICER GEFTER: All right.

18 Before we move on to the next topics, exhibit 46
19 was identified by the intervenor, Kern --

20 DR. UNGER: Kern-Kaweah.

21 HEARING OFFICER GEFTER: Kern-Kaweah
22 Sierra Club, and I haven't been pronouncing that
23 correctly.

24 Do you wish to move this exhibit into
25 the record?

1 DR. UNGER: I do, Ms. Gefter.

2 HEARING OFFICER GEFTER: Okay, this is
3 exhibit 46; a picture of a basket made by the
4 Kitanemuk Tribe, is that pronouncing it correctly?

5 Is there any objection from the
6 applicant to admission of this exhibit into the
7 record?

8 MR. THOMPSON: None.

9 HEARING OFFICER GEFTER: Staff?

10 MR. RATLIFF: No.

11 HEARING OFFICER GEFTER: Okay. Exhibit
12 46 is moved into the record.

13 DR. UNGER: Thank you.

14 HEARING OFFICER GEFTER: We will hold
15 open the topic of cultural resources pending
16 further discussion with Ms. Dee Dominguez. And
17 any language amendments to the testimony that is
18 in the AFC and the FSA, we will hear that
19 tomorrow? Is that what we planned? Or maybe this
20 afternoon?

21 MR. THOMPSON: Maybe this afternoon, but
22 maybe later.

23 HEARING OFFICER GEFTER: All right. We
24 will go on now to power plant reliability.
25 Applicant?

1 MR. THOMPSON: Thank you. Applicant
2 would like to call Mr. Joe Patch who has been
3 previously sworn.

4 I do have one housekeeping matter. My
5 records indicate that I failed to move exhibit 17
6 into evidence when Mr. Patch was on the stand. If
7 I did mention 17, I apologize. If I didn't, I'd
8 like to move it into evidence at this time.

9 HEARING OFFICER GEFTER: All right, is
10 there any objection to exhibit 17? It is the
11 applicant's responses to staff data requests dated
12 May 15.

13 MR. RATLIFF: No.

14 HEARING OFFICER GEFTER: And that was
15 regarding what topic?

16 MR. THOMPSON: It is the data requests
17 that have to do with the plume analysis, the air
18 quality engineering.

19 HEARING OFFICER GEFTER: What topic was
20 that?

21 MR. THOMPSON: Well, it's really an
22 engineering topic, more than an air quality topic.
23 I think that's why I had Mr. Patch --

24 MR. PATCH: It was respondent to visual,
25 or respondent to the quantitative model that was

1 done to simulate the cooling tower -- stack
2 plumes. Data requests related to those.

3 HEARING OFFICER GEFTER: This was
4 regarding facility design?

5 MR. PATCH: Yes.

6 HEARING OFFICER GEFTER: All right, any
7 objection to exhibit 17 being moved into evidence?
8 Staff?

9 MR. RATLIFF: No.

10 DR. UNGER: No.

11 HEARING OFFICER GEFTER: All right,
12 exhibit 17 is now moved into the record.

13 MR. THOMPSON: Thank you.

14 DIRECT EXAMINATION

15 BY MR. THOMPSON:

16 Q Mr. Patch, with regard to the subject
17 area of power plant reliability, am I correct that
18 your testimony, which is currently part of exhibit
19 38, covers your testimony in this subject area?

20 A Yes.

21 Q And as part of power plant reliability
22 you're sponsoring exhibit 1, the AFC section, more
23 specifically section 4.0, is that correct?

24 A Yes, it is.

25 Q And would you give us a brief summary of

1 your testimony on power plant reliability.

2 A The subject of reliability of the
3 facility is address continuing through the AFC,
4 itself, but the major issues that were addressed
5 in this section dealt with the selection of the
6 equipment that is chosen for the plant, which are
7 F class gas turbines, combined cycle, which are
8 highly efficient.

9 And in addition, there was a table that
10 was developed, table 3.4- -- 4.3-1, which
11 identified those major components of equipment
12 which would be redundant that would keep the plant
13 from failing should a single piece of equipment
14 fail.

15 Q Thank you.

16 MR. THOMPSON: Mr. Patch is tendered for
17 cross-examination in the subject of power plant
18 reliability.

19 PRESIDING MEMBER LAURIE: Let me
20 interrupt for a moment. Ladies and gentlemen, I
21 would ask all parties to put their telephone
22 equipment on vibrate, and then put it in a place
23 where you will note when somebody calls you. So
24 we're not further interrupted, please. Thank you.

25 HEARING OFFICER GEFTER: Mr. Patch, I'm

1 sorry, you had mentioned a particular chart, and I
2 missed the reference to that. Could you state
3 that again, a chart or a table?

4 MR. PATCH: Yes, it's in the AFC, and
5 it's table 4.3-1. And it's titled, major
6 equipment redundancy. Page 4-18.

7 HEARING OFFICER GEFTER: Oh, and you had
8 indicated --

9 MR. PATCH: We --

10 HEARING OFFICER GEFTER: -- you referred
11 to this table earlier, too, okay.

12 MR. PATCH: Referenced this earlier,
13 yes.

14 HEARING OFFICER GEFTER: Okay, thank
15 you. And what was the reference with respect to
16 reliability?

17 MR. PATCH: The intention is that there
18 are major components of equipment for which, in
19 the case of a single failure of that piece of
20 equipment, you would want to continue to operate
21 the plant at full capacity, and/or control its
22 shutdown. And this table is intended to identify
23 those pieces that would be redundant, and provide
24 that margin, that operability.

25 HEARING OFFICER GEFTER: Any questions

1 from staff on cross-examination?

2 MR. RATLIFF: No.

3 HEARING OFFICER GEFTER: Intervenors,
4 any questions?

5 DR. UNGER: No.

6 EXAMINATION

7 BY HEARING OFFICER GEFTER:

8 Q With respect to reliability there was
9 some discussion of the Xonon technology mentioned
10 as an alternative BACT for air quality. How does
11 that fit within the reliability section?

12 A Currently the Xonon technology is in the
13 development program between Catalytic or GE. The
14 results, or the ongoing results is that
15 development program continues. I understand that
16 the technology continues to be demonstrated as
17 improving in the sense that the applicability of
18 that to the F class turbine continues to look
19 promising.

20 Currently Xonon is applied and is
21 running in Santa Clara, the Silicon Valley Power,
22 on a 1.5 megawatt Mitsubishi machine.

23 There has also been recent agreements
24 with Pratt & Whitney out of Canada for the
25 application of Xonon to smaller Pratt & Whitney

1 manufactured equipment. I believe they're in the
2 10 megawatt range and below, I'm not a hundred
3 percent sure.

4 The application of Xonon would provide
5 emission controls for both the NOx and CO. Given
6 that the program continues to develop it would be
7 applied to all of the 3F machines now identified
8 for Pastoria.

9 Q The discussion of Xonon with respect to
10 Pastoria and regarding reliability of the machine,
11 is that you, in the testing results you're finding
12 that it would be a reliable mechanism to maintain
13 the plant, is that -- because I'm not really sure,
14 I don't understand how it fits into this
15 reliability issue.

16 A Well, I believe there were several
17 questions that are trying to be addressed by the
18 development program. Certainly one is the
19 applicability and its ability to achieve the
20 emission reductions that are targeted and now part
21 of the FDOC for this project.

22 The second portion of that, of course,
23 would be that the plant continue and be able to
24 function and operate in the normal course of
25 business without continuous interruptions.

1 Q All right.

2 A Indications are, again, on a very small
3 scale with the 1.5 megawatt Mitsubishi machine,
4 that performance reliability in the emission
5 reductions is very good, extremely well done. And
6 a lot of the emissions data is being reported on a
7 regular basis.

8 In terms of how the program specifically
9 is handling it, I'm not privileged to that
10 information. GE is again the driver force here in
11 this development program.

12 Q With respect to availability of natural
13 gas for the project, the Committee had asked some
14 questions of the applicant on that issue. Are you
15 the witness to answer that question? Or is
16 that -- are you going to present a different
17 witness?

18 MR. THOMPSON: We have Ms. Stephanie
19 Miller from Enron out of Houston who's flying in
20 tonight. We submitted her prepared testimony with
21 a map that shows the western U.S. pipeline system.

22 However, Mr. Patch, I think, is also
23 somewhat familiar with the natural gas situation
24 and the reliability of that commodity in the
25 western U.S.

1 And if you would like to pose questions
2 to him, we'll see if he can answer them. Or,
3 wait. It's your call.

4 BY HEARING OFFICER GEFTER:

5 Q Mr. Patch, what is your testimony on the
6 availability of natural gas through the life of
7 the project?

8 A It is our understanding that the natural
9 gas that currently be supplied and that is
10 primarily fed into the Kern/Mojave pipeline is gas
11 and gas sources that emanate both out of the
12 Montana/Wyoming area, as well as out of the west
13 Texas region, the Permian Basin.

14 To my knowledge that gas supply is not
15 only large, but has been proven over the years to
16 be available, particularly as we are moving more
17 northerly in California versus what currently is
18 constrained, or apparently has constraints in the
19 southern California area.

20 Q Is your testimony then --

21 PRESIDING MEMBER LAURIE: The audience
22 is having a tough time hearing, so we'd ask
23 everybody to speak up a little bit.

24 HEARING OFFICER GEFTER: Sorry.

25 PRESIDING MEMBER LAURIE: Ms. Griffin,

1 are you sure you don't want to sit at the table?
2 You might have an easier time.

3 MS. GRIFFIN: I've got my little niche
4 here, I guess.

5 PRESIDING MEMBER LAURIE: Okay. Any
6 problems just raise your hand.

7 BY HEARING OFFICER GEFTER:

8 Q Is it your testimony that the gas supply
9 from Kern/Mojave pipeline is coming from the
10 northern part of the country, from the Montana
11 region, rather than from the southern states?

12 A That's my understanding, yes. The lines
13 are interconnected, but that is the major source
14 of that interconnection, allows availability to
15 gas.

16 HEARING OFFICER GEFTER: Staff, do you
17 have any questions on this topic?

18 MR. RATLIFF: No.

19 DR. UNGER: Ms. Gefter, we have things
20 to say about ammonia and Xenon is relevant to
21 that, but I presume we should wait for the air
22 section rather than now to ask about ammonia?

23 HEARING OFFICER GEFTER: Right. That
24 will be a topic of discussion in the air quality
25 section, which we'll hear that tomorrow.

1 DR. UNGER: Thank you.

2 HEARING OFFICER GEFTER: Ms. Griffin, do
3 you have a question for Mr. Patch?

4 CROSS-EXAMINATION

5 BY MS. GRIFFIN:

6 Q Mr. Patch, I'm not sure if you're the
7 right person to ask, once again, but I'll concede
8 we are the Saudi Arabia of natural gas in this
9 country, but does the price of natural gas affect
10 the development of these power plants? I'm asking
11 very generally, not for Pastoria in particular.

12 Just get the price, I mean we've got --
13 it's been going up a little, which is great for
14 the oil patch here --

15 A No, if this is Joe's opinion, you know,
16 without being an economist, I mean it seems to me
17 that the cost of energy moves as the cost of
18 energy moves, it would -- oil is \$35 a barrel.
19 Everything associated with it is up, including,
20 you know, HandiWipes and plastic bags and
21 everything else.

22 And I think that's the case here. The
23 real issue, I thought, on reliability that we
24 attempted to address was if we are going to
25 consume the Btu of fuel, how can we do that most

1 efficiently. And the natural gas fired power
2 plants do that as efficiently thermodynamically as
3 any fuels that we have currently available. And
4 as safely as any that we have available.

5 Q Um-hum, well, --

6 A So that would be -- that's Joe's answer.

7 Q -- I'm sure you're aware in California
8 we have a nexus of a growing population plus
9 declining energy prices, which has hurt Kern
10 County terribly, but I mean there's a lot of cogen
11 plants or power plants or energy facilities,
12 whatever they're calling themselves here, and one
13 reason they say they just make lots of money off
14 of them.

15 Does the price of natural gas affect the
16 development of power plants?

17 A We're not involved in the economic
18 analysis of the plant. I really can't address
19 that directly. I can only address the efficiency
20 of the combustion process which uses the fuel as
21 efficiently again as any that is currently
22 available, so -- but I'm not sure --

23 Q Well, she was talking about a supply, do
24 we have a steady supply of natural gas --

25 A And I think that's tomorrow.

1 MR. THOMPSON: Ms. Miller, will, I
2 suspect, be able to give a more complete answer
3 tomorrow.

4 MR. PATCH: Yeah.

5 MS. GRIFFIN: Thank you.

6 HEARING OFFICER GEFTER: Mr. Thompson,
7 you indicated that Ms. Miller would be available
8 tomorrow to testify, so we would have to hold up
9 on this topic of power plant reliability until
10 tomorrow to allow your witness to testify?

11 MR. THOMPSON: Yes.

12 HEARING OFFICER GEFTER: Mr. Patch is
13 excused. We don't have further questions for him.

14 PRESIDING MEMBER LAURIE: Michal, did
15 you have any questions?

16 COMMISSIONER MOORE: I will tomorrow.

17 MR. THOMPSON: Mr. Patch, moving on to
18 power plant efficiency, if I may.

19 BY MR. THOMPSON:

20 Q Your testimony, which is contained in
21 exhibit 38 also deals with your responsibility for
22 power plant efficiency, is that correct?

23 A Yes.

24 Q And as part of the testimony you are
25 sponsoring sections 3.4 and 3.4.1 of the AFC

1 dealing with reliability and availability under
2 power plant efficiency, is that correct?

3 A Yes.

4 Q Would you please briefly summarize your
5 testimony on power plant efficiency.

6 A As previously you touched on the measure
7 of the efficiency of the plant relates to the
8 amount of energy that's consumed to produce, in
9 this case, a kilowatt of electricity. As a
10 measure that number is in the 52 to 56 percent
11 range for combined cycle gas turbines, which
12 presently exceeds any other form of fossil fuel
13 combustion process that generates electricity
14 that's existing today.

15 In terms of the ability of the
16 equipment, since it could be the baseload or load
17 follow, the equipment, as it's identified as plant
18 equipment, permanent plant equipment, is designed
19 to be able to support that and accept the
20 turndowns that would be appropriate depending on
21 the market demand and the ability for the plant to
22 load follow.

23 Q Thank you.

24 MR. THOMPSON: Mr. Patch is tendered for
25 cross-examination in the area of power plant

1 efficiency.

2 HEARING OFFICER GEFTER: Which exhibits
3 are Mr. Patch sponsoring?

4 MR. THOMPSON: Only portions of exhibit
5 1, again, the AFC.

6 HEARING OFFICER GEFTER: What section?

7 MR. THOMPSON: Section 3.4.

8 HEARING OFFICER GEFTER: Does staff have
9 any cross-examination of this witness?

10 MR. RATLIFF: No.

11 HEARING OFFICER GEFTER: Intervenors?

12 DR. UNGER: No.

13 HEARING OFFICER GEFTER: Mr. Patch,
14 you're excused on this topic.

15 At this point I want to reiterate that
16 of the topics that we've discussed today there are
17 three topics that remain open, reliability,
18 transmission system engineering and cultural
19 resources. The other topics are closed.

20 Okay, we're going to go on now --

21 PRESIDING MEMBER LAURIE: I want to
22 clarify, Ms. Gefter, that will staff be submitting
23 the testimony of their witnesses when we're done
24 today?

25 MR. RATLIFF: Yes. Either today or at

1 the end of the hearings tomorrow, whichever is
2 your preference.

3 PRESIDING MEMBER LAURIE: Okay.

4 MR. RATLIFF: We can do it either way.

5 PRESIDING MEMBER LAURIE: And you're
6 keeping track of all this, Dick?

7 MR. RATLIFF: Yes.

8 PRESIDING MEMBER LAURIE: We're just
9 going through it topic by topic, and is it your
10 intent to, for the purposes of the record, ask for
11 admission of statements topic-by-topic or
12 generally?

13 MR. RATLIFF: No. I think we're going
14 to enter -- we're going to have really -- staff
15 has three exhibits. One is the FSA, the second is
16 the --

17 PRESIDING MEMBER LAURIE: Okay.

18 MR. RATLIFF: -- admitted testimony, and
19 the third will be the ISO testimony.

20 PRESIDING MEMBER LAURIE: Okay.

21 MR. RATLIFF: And we just thought we'd
22 enter those three exhibits at the close of the
23 testimony.

24 PRESIDING MEMBER LAURIE: Okay, thank
25 you.

1 MS. GRIFFIN: Ms. Gefter?

2 HEARING OFFICER GEFTER: Ms. Griffin.

3 MS. GRIFFIN: Mary Griffin with Kern
4 Audubon. Why is waste management closed?

5 HEARING OFFICER GEFTER: No, we're not
6 closed on waste management. We're closed on all
7 the topics that we've discussed today, except for
8 the three that I mentioned. And we're going to go
9 on with the rest of the day.

10 MS. GRIFFIN: Oh, okay.

11 HEARING OFFICER GEFTER: And then also
12 we still will accept staff's exhibits at the close
13 of all the testimony.

14 So, I know you have questions on waste
15 management, and we'll get to that as soon as we --
16 we're going to go on to hazardous materials now.

17 Is applicant ready on hazardous
18 materials?

19 MR. THOMPSON: We are. Applicant would
20 like to recall Ms. Scholl. Ms. Scholl has been
21 previously sworn.

22 DIRECT EXAMINATION

23 BY MR. THOMPSON:

24 Q Ms. Scholl, the topic is hazardous
25 materials, and the witness is Kathryn Shirley.

1 Kathryn Shirley's testimony with rÇsumÇ and
2 declaration is included as part of exhibit 38.

3 Did Ms. Shirley conduct the hazardous
4 materials analysis under your direction?

5 A Yes.

6 Q And Ms. Shirley is here to sponsor a
7 portion of exhibit 1, the AFC, specifically
8 section 5.1-5 and exhibit 2, which is the site
9 assessment, is that correct?

10 A Correct.

11 Q Would you please briefly describe your
12 oversight role with regard to hazardous materials?

13 A In my role as project manager for the
14 AFC I provided direction to Ms. Shirley regarding
15 the preparation of the hazardous materials section
16 of the AFC.

17 I worked with her, together with Patch
18 Engineering, for the information that she needed
19 to complete her sections. I reviewed her
20 completed sections after she'd completed them, and
21 for conformance with CEC regulations, as well as
22 for consistency with the document.

23 Also, I did manage the preparation of
24 the phase one environmental assessment that was
25 actually conducted under my direction, for which

1 Ms. Shirley reviewed and accepted the findings.

2 Q Thank you.

3 MR. THOMPSON: Ms. Scholl is tendered
4 for cross-examination in the area of hazardous
5 materials, more specifically her oversight role
6 with regard to the preparation of that section.

7 HEARING OFFICER GEFTER: Does staff have
8 cross-examination?

9 MR. RATLIFF: No.

10 HEARING OFFICER GEFTER: Intervenors?

11 MS. GRIFFIN: No.

12 HEARING OFFICER GEFTER: I have a
13 question on the storage facility for aqueous
14 ammonia. I don't know if Ms. Scholl is the
15 witness who can answer that question, or perhaps
16 Mr. Patch.

17 MR. THOMPSON: If we could put on Mr.
18 Patch I think that's probably more appropriate.

19 (Pause.)

20 MR. THOMPSON: Mr. Patch has been
21 previously sworn.

22 EXAMINATION

23 BY HEARING OFFICER GEFTER:

24 Q Essentially what I wanted to hear about
25 was the design for the aqueous ammonia storage

1 facility and delivery process.

2 It wasn't included in the FSA. I know
3 it's in the AFC. Perhaps you can summarize it for
4 us.

5 A If I could I'll summarize from the AFC.
6 There is an ammonia unloading station. It's
7 envisioned that the aqueous ammonia be brought in
8 by tanker truck.

9 There is an enclosure, the ammonia
10 unloading enclosure that will be essentially a
11 building with plastic flaps on either end so that
12 the truck can physically drive through. And as
13 they drive through the flaps will just fall behind
14 them.

15 The unloading will take place in the
16 building. The building will have a slab floor
17 that will have a drain to a neutralization tank, a
18 storage tank, if you will, envisioned to be off to
19 the side, underground and off to the side of the
20 unloading facility.

21 The potential for a spill, should it
22 occur, the slab will direct the ammonia to a drain
23 similar to a floor drain that we've all seen in a
24 building, and take it to the neutralization tank,
25 which will be enclosed.

1 The storage system on site, itself, we
2 have proposed using double-walled storage tanks.
3 Totally a passive device and passive vehicle such
4 that the failure of the inner tank is simply
5 contained by the outer tank.

6 Q Is the double-walled tank underground,
7 or is that just --

8 A No, it's an above-ground tank, double-
9 walled.

10 Q So the delivery is to the double-walled
11 tank, or is it to --

12 A Yes.

13 Q -- the underground -- the underground
14 tank, then is what, the back-up?

15 A The underground tank is, should there be
16 a spill for any reason, in the off-load process a
17 connection is not made or a hose should break. To
18 contain that you have the truck in an enclosure.
19 The plastic flaps essentially close the building.
20 And any ammonia, the small amount that might be
21 spilled, would head to the drain and it would be
22 captured in this underground tank.

23 Q A typical delivery then would be that
24 the truck drives into the enclosed area and then
25 is hooked into the double-walled tank, is that how

1 it would work?

2 A Via our system of piping and valves,
3 yes.

4 Q Okay. And this tank complies with all
5 existing LORS that you're familiar with?

6 A Yes, it does.

7 Q All right.

8 A Yes, it will.

9 HEARING OFFICER GEFTER: Any other
10 questions on this topic from staff?

11 MR. RATLIFF: No.

12 HEARING OFFICER GEFTER: From the
13 applicant -- I mean intervenor, I'm sorry.

14 DR. UNGER: Yeah, one.

15 CROSS-EXAMINATION

16 BY DR. UNGER:

17 Q A fan would have no role -- would a fan
18 have any role if it was standing by and could be
19 turned on in the event of a spill? Could you suck
20 up some of the volatile ammonia?

21 A The intention would be to have a very
22 steep grade on the slab on which the truck is
23 sitting and unloading. And that you would drain
24 quickly via that slab to the underground vault
25 that now has virtually no access of escape to the

1 atmosphere save the potentially 6, 8 or 10 and 12
2 inch drain face.

3 So that the idea would be not to vent
4 the building. Not to bring the ammonia out to the
5 atmosphere.

6 Q Thank you.

7 HEARING OFFICER GEFTER: That's it on
8 that topic. I wanted to ask Ms. Scholl a couple
9 questions --

10 MR. THOMPSON: Okay, can I ask Mr.
11 Patch --

12 HEARING OFFICER GEFTER: Certainly if
13 you have redirect.

14 REDIRECT EXAMINATION

15 BY MR. THOMPSON:

16 Q Mr. Patch, your testimony on exhibit 38
17 briefly touched on certain aspects of the delivery
18 of the aqueous ammonia, is that correct?

19 A Yes.

20 Q So this topic area is, indeed, an area
21 that you're familiar with?

22 A Yes, I am.

23 Q Thank you very much.

24 MR. THOMPSON: Applicant would like to
25 recall Ms. Scholl.

1 EXAMINATION

2 BY HEARING OFFICER GEFTER:

3 Q One of the conditions, I believe
4 condition HAZ-2 requires the project owner to
5 provide a business plan, a risk management plan to
6 Kern County --

7 A Um-hum.

8 Q -- regarding mitigation for any spills
9 or any other exposure to hazardous materials. Is
10 this a -- the business plan, what's the model for
11 the business plan? Is a typical plan required by
12 existing LORS?

13 A Right. My role in other projects has
14 been that we follow the current standards and
15 prepare those plans for submittal to the
16 appropriate agencies.

17 Q This is a local and state law that
18 requires the R&Ps?

19 A That's my understanding, yeah. I'm in
20 the process of preparing some on another project
21 at this time.

22 Q Okay.

23 HEARING OFFICER GEFTER: Does staff have
24 questions on this subject of the R&P?

25 MR. RATLIFF: No.

1 DR. UNGER: No.

2 HEARING OFFICER GEFTER: Okay, thank
3 you. Okay, Ms. Scholl, thank you.

4 Mr. Thompson, you had identified exhibit
5 2 under this topic?

6 MR. THOMPSON: Yes.

7 HEARING OFFICER GEFTER: Do you wish to
8 move that into the record?

9 MR. THOMPSON: I would like to move
10 exhibit 2 into the record.

11 HEARING OFFICER GEFTER: Thank you. Any
12 objection to exhibit 2 in the record? No.

13 MR. THOMPSON: And while I'm at it --

14 HEARING OFFICER GEFTER: Intervenors?

15 MS. GRIFFIN: No.

16 HEARING OFFICER GEFTER: Okay.

17 MR. THOMPSON: And while I'm at it, I
18 think I failed to mention when Ms. Scholl was on
19 the stand we would like to move exhibit 10, which
20 are responses to the staff data requests filed
21 3/20/00, sponsored by Ms. Scholl. I'd like to
22 move exhibit 10 into the record.

23 HEARING OFFICER GEFTER: Any objection
24 to exhibit 10? Staff?

25 MR. RATLIFF: No.

1 HEARING OFFICER GEFTER: Intervenors?

2 All right, exhibits 2 and 10 are now entered into
3 the record.

4 I did have another question for you, Ms.
5 Scholl. It's regarding exhibit 2. The discussion
6 is not under HAZMAT, actually, I believe it was
7 under soils. Is there a discussion under soils
8 regarding --

9 MS. SCHOLL: Regarding the findings --

10 HEARING OFFICER GEFTER: Of ESA, yes. I
11 believe there were some findings and
12 recommendations under the ESA, and then the
13 project was then modified?

14 MS. SCHOLL: Um-hum.

15 HEARING OFFICER GEFTER: Is that under
16 the soils discussion? Because I don't see it here
17 under HAZMAT.

18 MS. SCHOLL: Our response to a data
19 adequacy request was handled under waste
20 management.

21 HEARING OFFICER GEFTER: That would be
22 under waste, all right, which is the next topic,
23 okay. Then we'll hold that question for waste.

24 And we will now close the record on
25 HAZMAT, except, of course, for staff's FSA and

1 supplemental testimony.

2 So we can now move on to waste.

3 MR. THOMPSON: We can move on?

4 HEARING OFFICER GEFTER: Yes.

5 DIRECT EXAMINATION

6 BY MR. THOMPSON:

7 Q Ms. Scholl, recognizing that Ms. Shirley
8 was the witness designated for exhibit 2, she is
9 also the preparer of the waste management section.

10

11 And I probably inappropriately placed
12 exhibit 2 under hazardous materials. I would like
13 you to consider exhibit 2 as part of waste
14 management, as well.

15 And then your role, am I correct, with
16 regard to Ms. Shirley's preparation of the waste
17 management section was one of oversight, is that
18 correct?

19 A Correct.

20 Q And Ms. Shirley's testimony, rÇsumÇ and
21 declaration are currently a part of exhibit 38 to
22 this proceeding?

23 A Correct.

24 Q And in that testimony Ms. Shirley wishes
25 to sponsor a portion of exhibit 1 which is the

1 AFC, more specifically section 5.2-4, waste
2 management, is that correct?

3 A Correct.

4 Q Would you please briefly summarize your
5 role with regard to oversight in the waste
6 management area?

7 A My role is project manager for the
8 environmental portions of the AFC. I supervised
9 Ms. Shirley's preparation of the waste management
10 section, and it was another section that required
11 direct work with Patch, Incorporated, to insure
12 that we had the proper information on waste
13 streams so that we knew what kind of solid waste
14 requirements would be necessary for the project.

15 I reviewed her sections once they were
16 completed for consistency with the rest of the
17 document, and with CEC regulations.

18 That was it.

19 Q Thank you very much.

20 A No, I'm sorry, and as well, the same
21 what I repeated earlier under hazardous materials
22 with respect to my direction on the phase one ESA.

23 Q Thank you.

24 MR. THOMPSON: Ms. Scholl is tendered
25 for cross-examination in the area of waste

1 management.

2 HEARING OFFICER GEFTER: Does staff have
3 cross-examination?

4 MR. RATLIFF: No.

5 HEARING OFFICER GEFTER: Ms Griffin?

6 MS. GRIFFIN: Mary Griffin for Kern
7 Audubon here.

8 CROSS-EXAMINATION

9 BY MS. GRIFFIN:

10 Q I read some information in the documents
11 about regional landfills, the big one at Bena and
12 the smaller ones at Arven and Taft, about their,
13 the life span. And I felt that the numbers
14 weren't right. And I wanted to know if -- I
15 emailed those concerns. And I wanted to know if
16 anybody had rechecked those numbers with some
17 local people?

18 COMMISSIONER MOORE: What kind of local
19 people did you have in mind?

20 MS. GRIFFIN: Department of Waste
21 Management, Daphne Washington is the Director --

22 COMMISSIONER MOORE: At the County, you
23 mean?

24 MS. GRIFFIN: Yeah, the County.

25 COMMISSIONER MOORE: The County Waste

1 Management folks. Did you?

2 MS. SCHOLL: Did we --

3 COMMISSIONER MOORE: Deal with the
4 County Waste Management?

5 MS. SCHOLL: County Waste Management was
6 contacted as part of our preparation of the
7 section.

8 COMMISSIONER MOORE: And that's cited?
9 You have a copy of this, do you not? Of this
10 document, the AFC?

11 MS. GRIFFIN: Yes, I do. Oh, yeah, --

12 MS. SCHOLL: There was contact with the
13 Kern County Department of Waste Management as part
14 of our preparation of this section.

15 COMMISSIONER MOORE: So, that answers at
16 least one of your questions. Did you have others?

17 BY MS. GRIFFIN:

18 Q Nothing was done since I emailed that to
19 reject the figures about the -- land --

20 HEARING OFFICER GEFTER: Yes, I believe
21 staff, in staff's supplemental testimony there is
22 a discussion in response to your questions. And
23 staff's supplemental testimony, I believe, is
24 exhibit -- is it 36? And in there is testimony of
25 Mr. Ringer, who was the author of the FSA section

1 on waste.

2 I don't know if you've seen that
3 supplemental testimony. If you haven't I'll ask
4 staff to show you a copy of it, and provide it to
5 Ms. Griffin. And perhaps after she looks at that,
6 if you have --

7 COMMISSIONER MOORE: That's the
8 supplemental testimony dated September 8th?

9 HEARING OFFICER GEFTER: Yes.

10 COMMISSIONER MOORE: And, Ms. Lewis, did
11 you make that available to all the intervenors?

12 HEARING OFFICER GEFTER: Yes, it was
13 served on everyone, wasn't it?

14 MS. LEWIS: Yes, it was.

15 COMMISSIONER MOORE: Well, then I think
16 that answers your question as to whether she got
17 it or not. It was served and --

18 HEARING OFFICER GEFTER: Did you not
19 receive it? It was sent to you.

20 Perhaps staff could point to that
21 testimony in that document and let Ms. Griffin
22 take a look at it. And we'll find out if you have
23 any additional questions after you look at that
24 particular document.

25 In the meantime, do you have other

1 questions for --

2 BY MS. GRIFFIN:

3 Q Was the waste stream from construction
4 and operation and closure identified in the
5 documents?

6 HEARING OFFICER GEFTER: What was your
7 question, I'm sorry?

8 COMMISSIONER MOORE: Waste stream --

9 MS. GRIFFIN: The waste stream from
10 construction and operation and maintenance and the
11 closure for Pastoria --

12 COMMISSIONER MOORE: Go ahead and
13 answer.

14 (Parties speaking simultaneously.)

15 BY MS. GRIFFIN:

16 Q -- delineated -- I --

17 COMMISSIONER MOORE: Yes. Your question
18 is on the table. Going to ask the witness to
19 answer.

20 MS. SCHOLL: The AFC contains a
21 discussion of all of the waste streams during
22 construction, operation of the facility. And that
23 operation includes maintenance. And that's --

24 COMMISSIONER MOORE: Do you want to give
25 the section number of that?

1 MS. SCHOLL: Section -- let's see, for
2 hazardous waste -- I'm sorry, for nonhazardous
3 solid waste it's section 5.14.2.1. And for
4 hazardous waste it's 5.145.2.3, and those are the
5 waste streams during construction and operation
6 and including maintenance of the facility.

7 COMMISSIONER MOORE: And that's in the
8 AFC which is available to everyone, and has been
9 available to everyone. So, we're not worried
10 about that one being served.

11 BY MS. GRIFFIN:

12 Q Does the California Energy Commission do
13 cumulative impacts --

14 COMMISSIONER MOORE: I'm sorry?

15 MS. GRIFFIN: Does the California Energy
16 Commission --

17 COMMISSIONER MOORE: There is a
18 cumulative impact section, but we're not --

19 MS. GRIFFIN: For all the power plants
20 they're approving in Kern County --

21 COMMISSIONER MOORE: For all of -- no,
22 ma'am. No, we do not have a cumulative impact
23 analysis that we're either required to do, or that
24 we prepare under our own volition for all of the
25 power plants in the state.

1 HEARING OFFICER GEFTER: There is a
2 section of the final staff assessment at page 132
3 that talks about cumulative impacts. It's a very
4 short section. I don't know if you saw that in
5 the final staff assessment. It's at page 132.
6 Take a look at that, that's staff's cumulative
7 impacts analysis.

8 MS. GRIFFIN: But they haven't done that
9 for all the -- they don't start adding up the
10 numbers --

11 HEARING OFFICER GEFTER: They looked
12 at --

13 MS. GRIFFIN: -- so to speak, as these
14 power plants come on --

15 HEARING OFFICER GEFTER: You can ask --

16 MS. GRIFFIN: -- are approved?

17 HEARING OFFICER GEFTER: You can ask Ms.
18 Lewis and she can respond to you. Page 132 of the
19 FSA. Ms. Lewis.

20 MS. LEWIS: Do you mean if they do a
21 cumulative analysis for every plant in the state?
22 I don't understand the question.

23 MS. GRIFFIN: No, just looking at our
24 local landfills, is there any cumulative analysis
25 that you take into consideration our local

1 landfills, pay \$29 a ton, which is a break-even
2 cost for us.

3 MS. LEWIS: I believe the information is
4 provided about the landfills includes all the
5 possible waste that could go to that landfill. He
6 does provide information in his testimony about
7 the capacity and remaining tonnage, and how much
8 goes into that particular landfills.

9 MS. GRIFFIN: Okay, thank you.

10 COMMISSIONER MOORE: And, Ms. Lewis,
11 you'll make sure that the copy of the supplemental
12 dated September 8th gets -- she gets to see that.

13 MS. LEWIS: Yes.

14 HEARING OFFICER GEFTER: Mr. Unger.

15 DR. UNGER: Yes. I was surprised that
16 we don't keep track of cumulative impacts. I
17 think perhaps the question was misunderstood.
18 It's a fundamental question of CEQA, and is it so,
19 that if an area, for example, is not in
20 compliance, for example, with a particular ambient
21 air pollutant, and you build a plant that produces
22 that air pollutant, that you don't take into
23 consideration of how your plant will affect the
24 situation in that area?

25 MR. RATLIFF: No. No. Air quality is,

1 by its very nature, a cumulative impact analysis.
2 It doesn't make sense to look at it in isolation,
3 because you never have an impact in isolation
4 from --

5 DR. UNGER: Okay, so --

6 MR. RATLIFF: -- facility you build
7 today.

8 DR. UNGER: -- so I guess I didn't
9 understand. You do look at cumulative impacts --

10 MR. RATLIFF: Yes, and actually --

11 DR. UNGER: -- on air and water and so
12 forth?

13 MR. RATLIFF: And you have it here,
14 although it's somewhat abbreviated. And this
15 witness looked at -- he mentions the impacts from
16 other Kern County projects under cumulative
17 impacts, Elk Hills and Sunrise projects.

18 DR. UNGER: That's how I thought it was,
19 thank you.

20 MR. RATLIFF: Okay.

21 EXAMINATION

22 BY HEARING OFFICER GEFTER:

23 Q I had a question regarding the phase one
24 ESA. There was, in the phase one ESA there were
25 several recommendations that were made. And as a

1 result of the recommendations the applicant
2 changed some of your proposal.

3 Could you please summarize what the
4 recommendations were, and how the proposal was
5 changed as a result of the recommendations?

6 A I'd be happy to do that, as well. A
7 detailed description of how our proposal changed
8 is described in our March 3rd -- submittal to the
9 March 3rd data request, and it's our response
10 number 43.

11 Q And what exhibit is that?

12 A I believe it would be exhibit 10, and it
13 would be a portion of our March 13th submittal to
14 Kae Lewis. At which point it describes, within
15 our response, that we deleted two northern gasline
16 routes from the project description, as well as a
17 wastewater discharge line.

18 And so therefore that eliminated some of
19 our original recommendations in the phase one ESA.
20 Our first recommendation was that the soil sample
21 be sampled at the eastern perimeter of the project
22 site where some chemical drums were observed.

23 And I think our expectation was that the
24 project construction is not expected to actually
25 occur within -- or is far enough away from where

1 the tanks were observed, that therefore phase two
2 testing was not recommended. That was our first
3 revision to our finding.

4 The second recommendation from the phase
5 one ESA was that soil sampling occur on the
6 wastewater discharge line. That no longer applies
7 because that's not a part of the project.

8 The third recommendation was that soil
9 sampling occur along some above-ground storage
10 tanks associated with farm maintenance yards along
11 routes 3, 3A and 3B.

12 In addition, there was stained soils
13 observed within the proximity to some oil
14 development. And what we suggested will be more
15 appropriate, rather than doing phase two testing
16 at the time of the data request, was that once we
17 did the final engineering for the pipeline and
18 knew the exact location of the line, we would then
19 re-evaluate whether we would need to do soil
20 testing.

21 And we have recently completed enough
22 final design information to take that into
23 consideration. That was filed as part of our Army
24 Corps of Engineers packet. But we have not gone
25 back and re-evaluated that.

1 The expectation was all along with any
2 of these issues with respect to contaminated
3 soils, that we would do it prior to construction
4 or before, as requested.

5 The fourth recommendation was related to
6 an above-ground storage tank containing some farm
7 chemicals. And we left it the same. But once we
8 determine the exact location of the pipeline, we
9 would determine whether that needed to be tested.
10 And we have not done that at this time.

11 And there was just four recommendations
12 in the ESA.

13 Q Two questions. One is regarding the 55
14 gallon drums that were observed, and the
15 recommendation is that the drums are far enough
16 away from the proposed line. Three of the drums
17 are 500 feet, and one of the drums is 1500 feet
18 from the site, and that was determined to be far
19 enough away. Is that standard?

20 A I don't know the answer to that
21 question. I just was the one that directed the
22 report.

23 Q Perhaps you can get that information for
24 us in the record, is it standard, or how did they
25 determine that it was far enough away.

1 The other question is, and this is just
2 for Enron generally, what happens to those 40, 55
3 gallon drums that were observed, plus the three
4 that are closer to the site? Are they going to be
5 cleaned up? Are they going to be removed? Or is
6 this something having to do with the project?

7 MR. THOMPSON: I don't believe that any
8 of those are on any of the property that we're
9 going to be taking control of.

10 HEARING OFFICER GEFTER: That's correct,
11 sorry.

12 MR. THOMPSON: So I don't know that we
13 can answer that.

14 COMMISSIONER MOORE: They're on adjacent
15 property?

16 MR. THOMPSON: That's correct.

17 BY HEARING OFFICER GEFTER:

18 Q Is the existence of the drums reported
19 to the County? Is the County familiar with these
20 drums? I mean, it jus sits there, or you don't
21 know?

22 A I don't know the answer to that
23 question.

24 Q And then the second question is
25 regarding the recommendation that you're not going

1 to do anything further with the phase two ESA
2 until the final design plans, and this is, I
3 believe it's included in one of the conditions, is
4 that --

5 A Correct.

6 Q -- your understanding in that --

7 A It's one of --

8 Q -- is that condition WASTE-4? Or would
9 that be --

10 A Is it in supplemental testimony? Might
11 be in --

12 (Pause.)

13 BY HEARING OFFICER GEFTER:

14 Q It's actually WASTE-5, isn't it? WASTE-
15 4 talks about hiring somebody to monitor and
16 then --

17 A Actually it's WASTE-9 is --

18 Q WASTE-9 --

19 A -- the one that says, as soon as
20 practical, after exact routing of the natural gas
21 pipeline that we shall submit a soil sampling plan
22 to the CPM for review and approval.

23 And the verification timing on that
24 condition is no less than 60 days prior to the
25 start of the natural gas supply line pipeline

1 construction.

2 Q And this is coordinated with the
3 materials that you've submitted to Army Corps of
4 Engineers?

5 A Well, the --

6 Q Because you mentioned --

7 A -- the detailed design was done for the
8 404 permit application with Army Corps of
9 Engineers, and so when we were originally asked
10 these questions as part of data adequacy, we
11 didn't have that information.

12 Now we submitted that information to
13 Army Corps in August. So we have had that for a
14 little bit of time, but we haven't gone and done
15 any further investigations with the more exact
16 routing of the pipeline.

17 Q Okay, and when will that be done, then?
18 Will that be done under waste -- under condition
19 of WASTE-9?

20 A I would expect that the applicant would
21 choose to comply with condition WASTE-9 unless
22 they were requested to do otherwise.

23 HEARING OFFICER GEFTER: Are there any
24 questions of the witness from staff, cross-
25 examination from staff?

1 MR. RATLIFF: No.

2 HEARING OFFICER GEFTER: All right.

3 Redirect from the applicant?

4 MR. THOMPSON: No, thank you.

5 HEARING OFFICER GEFTER: Thank you. We
6 can move on to the next topic, which is traffic
7 and transportation.

8 MR. THOMPSON: Thank you. Ms. Scholl is
9 still on the stand.

10 DIRECT EXAMINATION

11 BY MR. THOMPSON:

12 Q Ms. Scholl, as you recognize Mr. Smith
13 as the designated witness for traffic and
14 transportation and his testimony, along with his
15 sponsoring of section 5.11 of exhibit 1, is
16 contained in the now identified exhibit 38, is
17 that correct?

18 PRESIDING MEMBER LAURIE: Mr. Thompson,
19 I'm going to try an experiment here.

20 MR. THOMPSON: Uh-oh.

21 PRESIDING MEMBER LAURIE: And see how
22 far I can get before my Hearing Officer kicks me.

23 Is any party going to have any questions
24 on this issue?

25 DR. UNGER: No.

1 MS. GRIFFIN: No.

2 PRESIDING MEMBER LAURIE: Ms. Gefter, is
3 there any reason why any testimony has to occur if
4 there's going to be stipulation?

5 HEARING OFFICER GEFTER: Only if the
6 Committee has questions.

7 PRESIDING MEMBER LAURIE: Okay.

8 COMMISSIONER MOORE: And we simply have
9 to identify that all the information is in the
10 record.

11 HEARING OFFICER GEFTER: Yes, we will do
12 that, of course, and we will identify the exhibits
13 relevant to this particular topic.

14 PRESIDING MEMBER LAURIE: The experiment
15 was to determine the absolute minimum amount of
16 testimony that is necessary when there's no issue
17 in controversy.

18 MR. THOMPSON: Sometimes it's difficult
19 when you're paid by the words.

20 PRESIDING MEMBER LAURIE: I understand
21 that.

22 (Laughter.)

23 COMMISSIONER MOORE: He probably really
24 understands that.

25 PRESIDING MEMBER LAURIE: You bet I do,

1 and I'm just chomping at the bit, Mr. Thompson.

2 (Laughter.)

3 BY MR. THOMPSON:

4 Q Ms. Scholl, section 5.1.1 of the AFC is
5 being sponsored by Mr. Smith and you are the
6 reviewing senior with regard to Mr. Smith's
7 testimony, is that correct?

8 A Yes.

9 MR. THOMPSON: I would present Ms.
10 Scholl for cross-examination, if any, on her role
11 as supervisor of the preparation of traffic and
12 transportation, Mr. Smith's material.

13 HEARING OFFICER GEFTER: Does the
14 Committee have any questions? No questions of the
15 witness from the Committee.

16 We can move on to the next topic.

17 MR. THOMPSON: Ms. Scholl, the next
18 topic is visual.

19 DIRECT EXAMINATION

20 BY MR. THOMPSON:

21 Q Am I correct that Mr. Merriam is the
22 witness and has filed testimony, rÇsumÇ and
23 declaration, and more specifically, wishes to
24 sponsor exhibit 1, section 5.13, visual resources
25 section of the AFC currently identified as exhibit

1 1, is that correct?

2 A Correct.

3 Q And you, in your role with URS --
4 Woodward Clyde, are reviewing authority of Mr.
5 Merriam's material?

6 A Yes.

7 MR. THOMPSON: Ms. Scholl is tendered
8 for cross-examination with regard to her role
9 overseeing the visual testimony.

10 HEARING OFFICER GEFTER: Which --

11 PRESIDING MEMBER LAURIE: Are there --
12 I'm sorry, Ms. Gefter, go ahead.

13 HEARING OFFICER GEFTER: I just need you
14 to reiterate which section of exhibit 1 this topic
15 comes under.

16 MR. THOMPSON: 5.13.

17 HEARING OFFICER GEFTER: Thank you.

18 EXAMINATION

19 BY PRESIDING MEMBER LAURIE:

20 Q Ms. Scholl, I'm making reference to the
21 FSA, visual resources, figure 7.

22 (Pause.)

23 BY PRESIDING MEMBER LAURIE:

24 Q I understand that this is not your
25 exhibit, but I would ask you to look at it and

1 offer your own opinion as to whether or not figure
2 7 represents an accurate portrayal of the view
3 before and after the construction of the plant?

4 A Having been involved with the input to
5 both the location of the photograph and the model,
6 itself, I find this figure to be an accurate
7 representation of the visual simulation of the
8 power plant at that key observation point.

9 Q And is it clear from looking at part two
10 of that photograph that the plant is and would be
11 visible from the highway?

12 A Yes. And from this location the plant
13 location is approximately 6.5 miles east from I-5.

14 Q Thank you. The figure of the person
15 that appears in both A and B, would you anticipate
16 from industry practice that that would be perhaps
17 an average male size of six feet or so?

18 A The item in the picture is actually not
19 a person; it's a post that's actually alongside
20 the freeway in that location. And I don't know
21 the exact height of that.

22 But we do know, and Mr. Patch could tell
23 you, the approximate height of the power poles
24 that are shown in the photo.

25 COMMISSIONER MOORE: Ten or 12 meters,

1 right?

2 MR. PATCH: I'd say 30 feet; 30 feet
3 is --

4 MS. SCHOLL: Thirty feet for the shorter
5 wooden pole, and for --

6 COMMISSIONER MOORE: I don't think so.
7 If the fencepost is two meters, then you're at
8 five meters to the little pole, and -- if they're
9 on the same plane.

10 (Off-the-record discussions.)

11 MS. SCHOLL: Okay, in the consultation
12 with Mr. Patch, what appears to be the telephone
13 pole or the wooden pole in the picture is
14 approximately 20 feet, and the larger electric
15 transmission would be closer to 30 feet.

16 BY PRESIDING MEMBER LAURIE:

17 Q There are three poles in the picture.

18 A Okay, I'm --

19 Q I was referring to the smallest.

20 A That, I believe, is just a post, a sign
21 post.

22 Q Okay, and that is what you'd estimate
23 five or six feet?

24 A That's what I would say, yes.

25 Q Okay, thank you. Now, given that, and

1 again I'm just asking for your estimation, --

2 A Okay.

3 Q -- if, for purposes of discussion, there
4 were to be landscaping along the highway that
5 would block the view of the plant from the
6 highway, in the form of let's say trees, how tall
7 would those trees have to be from your viewing of
8 figure 7 in order to block the view from the
9 highway? Not of the plume --

10 A Um-hum.

11 Q -- just of the plant, itself?

12 A Based upon my earlier estimates it would
13 appear that a vegetation of approximately 10 feet
14 would fully block the view from this location.

15 Q And is vegetation currently proposed?

16 A We do have other vegetation proposed.
17 It is not along the freeway, but it is intended to
18 screen the view of the plant from the freeway.

19 Q Okay, but --

20 A It's closer to the project site.

21 Q Would it be a correct statement that
22 landscape barriers along the highway would be more
23 effective of blocking the view than landscaping
24 adjacent to the plant?

25 If you were to stick a six-foot or a

1 ten-foot tree at the entrance to the plant, it
2 really wouldn't do much, as opposed to sticking a
3 ten-foot tree adjacent to the highway.

4 A We have identified several locations in
5 coordination with Tejon Ranch that are in various
6 places throughout the ranch property, ranging from
7 approximately 3000 feet to six miles from the
8 plant site, and where vegetation would be planted
9 intended to screen the view of the power plant.

10 Q And is it your testimony that the view
11 would be entirely screened, partially screened?

12 A I don't know the answer to that question
13 without seeing a simulation.

14 Q And we do not have a photo simulation as
15 part of the record --

16 A No.

17 Q -- of any proposed landscaping?

18 A No.

19 Q Photosimulations have been used for some
20 time. Okay, well, strike that.

21 PRESIDING MEMBER LAURIE: That's all,
22 thank you.

23 (Pause.)

24 PRESIDING MEMBER LAURIE: Mr. Thompson,
25 I'm going to have a question of Mr. Patch when

1 it's opportune on the photo.

2 HEARING OFFICER GEFTER: Are there any
3 questions of Ms. Scholl in cross-examination?

4 MR. RATLIFF: If I could just ask a
5 clarifying question.

6 CROSS-EXAMINATION

7 BY MR. RATLIFF:

8 Q I wonder, Ms. Scholl, do you know who
9 actually owns the land adjacent to the freeway in
10 the area that is represented by visual resources
11 figure 7?

12 A It would be my expectation, based upon
13 similar cases, that there's a measured right-of-
14 way that is owned by Caltrans. And then beyond
15 that the property is Tejon Ranch's property.

16 Q So Tejon Ranch's property abuts the
17 Caltrans' property?

18 A Correct.

19 Q How far out is the Caltrans property, do
20 you think, how far is the right-of-way from --

21 A I don't know the answer to that
22 question.

23 Q Thank you.

24 HEARING OFFICER GEFTER: Dr. Unger, do
25 you have a question of the witness?

1 DR. UNGER: Yes.

2 CROSS-EXAMINATION

3 BY DR. UNGER:

4 Q Trees are nice along the freeways, and I
5 hope the Caltrans biologist would come up with his
6 way to put a screen -- or could a Caltrans
7 biologist come up with the way to put a screen so
8 that it wouldn't use much water, and we could have
9 the trees?

10 HEARING OFFICER GEFTER: Is that a
11 question of Ms. Scholl?

12 DR. UNGER: Yeah, I fixed it.

13 BY DR. UNGER:

14 Q I said, could a Caltrans biologist come
15 up with a way to have this screen that
16 Commissioner Laurie talks about without having to
17 go to great lengths to get the water.

18 A Probably, but I don't know the answer to
19 that question.

20 Q I don't, either.

21 DR. UNGER: Thank you.

22 PRESIDING MEMBER LAURIE: That was very
23 well done, Dr. Unger.

24 HEARING OFFICER GEFTER: Does Ms.
25 Griffin have a question of the witness? Ms.

1 Griffin, do you have a question on visual
2 resources? Do you have any cross-examination for
3 Ms. Scholl?

4 MS. GRIFFIN: No.

5 HEARING OFFICER GEFTER: Thank you.

6 MR. THOMPSON: I would like to recall
7 Mr. Patch in the area of visual.

8 EXAMINATION

9 BY PRESIDING MEMBER LAURIE:

10 Q Mr. Patch, I'd ask you to turn to figure
11 9 of the FSA. Was that photosimulation conducted
12 by you or under your supervision?

13 A Yes, it was.

14 Q Is it your representation that that
15 simulation represents an accurate view from the
16 highway subsequent to the construction and
17 operation of the proposed facility?

18 A Yes, it does.

19 Q And looking at the small post in the
20 middle of the picture, would you care to estimate
21 the height of that post?

22 A Six to eight feet, based on the height
23 of the jersey barriers and what looks to be the
24 steel fence behind.

25 Q I'd ask you to estimate the -- given

1 that number, and using the post as a guide, can
2 you estimate the height of proposed landscaping
3 along the highway that would, in effect, block or
4 partially block the viewing of the plant facility,
5 itself, not the plume?

6 Of course, I understand it depends on
7 how close to the highway you're talking about.
8 But, you can see pictures of the top of the fence
9 post. Let's assume that's Caltrans' right-of-way.

10 A Based on the height of the jersey
11 barrier and that existing short post that was just
12 identified as six to eight feet, another four to
13 six feet would, I believe, be adequate to screen
14 the plant, which would make it ten to 12 feet.

15 Q Thank you. And do you have any
16 information regarding ownership of the land
17 adjacent to the highway, other than Caltrans'
18 right-of-way?

19 A No, I do not.

20 Q Thank you.

21 PRESIDING MEMBER LAURIE: Thank you, Mr.
22 Thompson.

23 HEARING OFFICER GEFTER: Mr. Thompson,
24 do you have any redirect of your witness?

25 MR. THOMPSON: No, we do not.

1 HEARING OFFICER GEFTER: I think we are
2 concluded on visual resources. The next topic is
3 compliance and closure.

4 Does the applicant have a witness on
5 that topic?

6 MR. THOMPSON: Yes, I'd like to recall
7 Mr. Wehn. And I'd like the Committee to consider
8 maybe a five- or ten-minute break after that to
9 see if we can agree with staff and wrap up on
10 transmission engineering.

11 Mr. Wehn has been previously sworn.

12 DIRECT EXAMINATION

13 BY MR. THOMPSON:

14 Q Mr. Wehn, in your testimony which is
15 part of exhibit 38, you are testifying to project
16 closure in exhibit 1, section 3.10, is that
17 correct?

18 A That is correct.

19 Q Would you please briefly, very briefly
20 describe the compliance closure material that's
21 part of your testimony?

22 A At that stage when the decision is made
23 that we will be closing the project permanently,
24 we will be offering up a closure plan to the
25 California Energy Commission. And it's our desire

1 to restore the land to its original condition.

2 Q Thank you.

3 MR. THOMPSON: Mr. Wehn is tendered for
4 cross-examination on the compliance and closure.

5 COMMISSIONER MOORE: I have a question
6 for Mr. Wehn.

7 EXAMINATION

8 BY COMMISSIONER MOORE:

9 Q Could you just describe what you mean by
10 original condition? What visual and/or narrative
11 view of that comes to mind when you say original
12 condition?

13 A Original condition to me means that if
14 we found the area with grass and just barren land,
15 that's exactly what it's going to look like
16 whenever we close the plant down and walk away
17 from it.

18 Q As opposed to what we might have thought
19 of as original condition prior to settlement in
20 the Great Valley where it would have been native
21 grasses or rolling terrain -- rolling range land
22 is what it really would have been, unfenced range
23 land, itself.

24 You're differentiating between that, the
25 original pristine kind of condition, and what you

1 found when you came to the site?

2 A That is correct.

3 COMMISSIONER MOORE: Thank you.

4 HEARING OFFICER GEFTER: I'm going to
5 ask staff whether you can give us information on
6 the compliance and closure plan that's included in
7 the FSA?

8 MS. LEWIS: Maybe.

9 HEARING OFFICER GEFTER: And before you
10 go on, just to give us a general overview of that,
11 does staff have any cross-examination of the
12 witness on the closure plan? Mr. Ratliff, is
13 there cross-examination?

14 MR. RATLIFF: No.

15 HEARING OFFICER GEFTER: Dr. Unger, do
16 you have cross-examination of Mr. Wehn? Yes, you
17 do. Okay.

18 DR. UNGER: Yes.

19 HEARING OFFICER GEFTER: Please go
20 forward.

21 CROSS-EXAMINATION

22 BY DR. UNGER:

23 Q Mr. Wehn, there is a little native grass
24 left out there, and I asked an expert and they
25 said you're not going to restore that.

1 But, do you think Enron, when it's
2 time -- during operation, could guard a little of
3 that native grass and when it's time for closure
4 perhaps with the aid of the taxpayer, restore some
5 native grass to that 31 acres?

6 A Well, I can't tell you where this grass
7 is located. There is a buffer zone around our
8 facility that we are going to maintain for the
9 life of the project. And it's a good possibility
10 that what you're speaking to is located at that
11 location.

12 DR. UNGER: I'll hope for the
13 possibility. Thank you.

14 HEARING OFFICER GEFTER: Ms. Griffin, do
15 you have a question of the witness?

16 MS. GRIFFIN: I don't have a question
17 but I can appreciate the fact that Enron is only
18 going to lease this property. I don't see how
19 they can have that much control over how it's
20 going to be left or restored. I think it was oak
21 savannah grassland way back when.

22 PRESIDING MEMBER LAURIE: Well, let me
23 clarify for the record, and I want to make sure I
24 understand, there will be a series of conditions
25 attached to this project.

1 It will be the applicant's obligation to
2 meet those conditions to the extent that the lease
3 has to permit such, well, that's going to be the
4 issue between the applicant and the landowner.

5 And so merely because one is leasing as
6 opposed to owning, really does not impact the type
7 or nature of conditions that are imposed in order
8 to satisfy all mitigation measures.

9 MS. GRIFFIN: Well, Enron may be between
10 two, Tejon Ranch on one side, and you know, they
11 have to balance demands on both sides.

12 PRESIDING MEMBER LAURIE: Well, we will
13 leave that to the applicant, Ms. Griffin.

14 HEARING OFFICER GEFTER: I do want to
15 ask staff to at least describe to us the
16 compliance plan in terms of if this is a typical
17 compliance plan that's always used at the
18 Commission, and indicate to us where it's located
19 in the FSA.

20 MS. LEWIS: In the FSA there is a
21 chapter on general conditions including compliance
22 monitoring and closure plan, which was prepared by
23 CEC Staff, Nancy Tronas.

24 And it is typical of a power plant
25 compliance and closure plans for the other plants.

1 It includes responsibilities, compliance and
2 closure responsibilities for both staff and for
3 the applicant.

4 And it is a generalized version of the
5 sections on facility closure and conditions of
6 compliance for each of the chapters.

7 HEARING OFFICER GEFTER: And, Mr. Wehn,
8 applicant has agreed to abide by the compliance
9 plan that is contained in the staff assessment if
10 adopted by the Commission?

11 MR. WEHN: Yes, we will.

12 HEARING OFFICER GEFTER: All right. Any
13 questions?

14 PRESIDING MEMBER LAURIE: Yes. If it
15 wasn't so soon after lunch I wouldn't have had
16 this problem.

17 Let me go back to Mr. Patch for a
18 moment. And this goes back to the visual
19 resources issue again.

20 In recollecting what photo number 9
21 looks like, I don't think you need it in front of
22 you, in representing the location and anticipated
23 view of the project from the highway, is there any
24 grading planned as part of the construction that
25 would provide a soil base to the site that will

1 raise the height of the plant, two, three, four,
2 five feet?

3 MR. PATCH: The short answer is no.
4 There is a cross-section, and there is a plan view
5 in, if we want to pull a figure, would that help?
6 In the AFC.

7 PRESIDING MEMBER LAURIE: Yes -- well,
8 no, let me tell you why I'm asking the question.

9 I had an experience about ten years ago
10 where I was involved in a project and we did a
11 photosimulation showing a project to be completely
12 blocked from view from the highway.

13 Well, I drove by there last week, and
14 construction has started, and lo and behold, it
15 was right there and I almost slammed on my brakes,
16 destroying numerous lives with me.

17 But, what had happened was they graded
18 and they added about ten feet to the project site,
19 which completely destroyed the -- completely
20 contrary to the photosimulation.

21 I'm simply asking that is there any
22 grading planned that would have such an effect on
23 the photosimulation as proposed?

24 MR. PATCH: No. The photosimulation is
25 based on the grading plan as proposed that is in

1 the AFC. The grading plan, as proposed in the
2 AFC, makes use of the natural terrain. And, in
3 fact, makes use of some of the elevation
4 differences in terms of the auxiliary loads
5 associated with the plant, by reducing them.

6 And as the photosimulation was built,
7 physically built as a drawing in autocad one to
8 one, the differences in elevation associated with
9 the water treatment being high and the plant being
10 the lowest, with the switchyard kind of in the
11 middle, is accounted for.

12 So what you see is set in the ground at
13 the elevations that are shown as the site would be
14 prepared to accept foundations and the equipment.

15 PRESIDING MEMBER LAURIE: And you will
16 leave your forwarding address with the Commission,
17 is that correct?

18 (Laughter.)

19 PRESIDING MEMBER LAURIE: Thank you very
20 much. That's all I have.

21 MR. RATLIFF: Commissioner, if I may, on
22 this issue of the closure plan, just reading
23 through here it appears that the closure plan is
24 prospective, it's not actually something that's in
25 existence now.

1 And there's nothing in here, as I see
2 it, that requires restoration of the site to its
3 original state.

4 And the applicant has expressed a
5 willingness to do that, so I wonder if the
6 Committee might want to make that a requirement of
7 the closure plan. I don't know if these are
8 routinely in the staff closure plans or not. I
9 didn't find anything that addressed that directly.

10 PRESIDING MEMBER LAURIE: Question, Mr.
11 Ratliff. Why is it not staff policy to, as a
12 matter of routine, call for restoration of the
13 site?

14 MR. RATLIFF: I'm wondering, myself.
15 I'm looking through -- that is what I was looking
16 for when I was looking through --

17 MR. THOMPSON: If I may offer a
18 statement of counsel, been doing these for a long
19 time.

20 Some of the first cases that I worked on
21 had restoration plans. And in a number of them
22 there was a substantial amount of discussion about
23 whether or not the parcel of land would ever go
24 back to, or should go back to an original state.

25 Real estate people would come in and

1 testify that once a parcel becomes industrial, if
2 there is a need for industrial acreage in the
3 area, it was better to use that, than to take
4 virgin land and make that industrial.

5 And I think -- my own recollection is
6 that we all got kind of caught up in that, and the
7 closure plan became -- or the restoration plan
8 became simpler because of those discussions.

9 Basically it's very hard to know what
10 we're going to be looking at 35 years down the
11 road or whatever.

12 PRESIDING MEMBER LAURIE: Mr. Thompson,
13 when the -- in looking at page 238 of the FSA, the
14 closure, and there's no condition attached, and if
15 there is a specific condition regarding closure,
16 let me know.

17 But, the language simply states that the
18 closure plan, that the project owner is required
19 to repair. So, is the reference to a closure plan
20 contained as a condition? And where is that?

21 MR. THOMPSON: We --

22 PRESIDING MEMBER LAURIE: It also makes
23 reference to a contingency plan that the owner is
24 required to prepare.

25 MR. THOMPSON: We also do not find the

1 requirement for the filing of a closure plan,
2 although we have agreed to that. Although this is
3 in visual. It could be in another area of the
4 document.

5 HEARING OFFICER GEFTER: Under general
6 conditions, which begins at page 497 of the final
7 staff assessment, at page 506 are general
8 conditions for facility closure.

9 (Pause.)

10 MR. RATLIFF: It was only my intent to
11 point out that nothing in that discussion requires
12 returning the site to its original state. And if
13 you wanted to do that, that's something, I guess,
14 we could consider asking -- or placing, actually,
15 in the conditions, yourself, that the compliance
16 plan have that as a condition, if you think it's
17 what you want to do.

18 PRESIDING MEMBER LAURIE: So, Mr.
19 Thompson, reading pages 506 and 507, -- making
20 reference to pages 506 and 507, --

21 MR. THOMPSON: Yes, sir.

22 PRESIDING MEMBER LAURIE: -- in reading
23 what the contents of a closure plan should
24 contain, with your review of those comments, would
25 you have a sufficiently concise understanding as

1 to how to prepare such a plan?

2 What I'm asking you to do is read
3 carefully those paragraphs and indicate whether,
4 as the project's representative, you have
5 sufficiently adequate understanding so that you
6 would know how to direct personnel to prepare such
7 a plan, should it be necessary to do so?

8 MR. THOMPSON: Mr. Commissioner, I
9 believe the answer to that is yes. With a caveat
10 that there is information and other documents and
11 plans such as the BRMIMP that also addressed this
12 issue.

13 PRESIDING MEMBER LAURIE: Okay, thank
14 you, sir.

15 (Pause.)

16 PRESIDING MEMBER LAURIE: Let's go ahead
17 and take a break.

18 HEARING OFFICER GEFTER: We are finished
19 with all the topics for today except for the ones
20 that remain open that we identified earlier.

21 We're going to take a break now and
22 we'll reconvene at 3:15. Is that enough time?

23 MR. THOMPSON: Yes.

24 (Brief recess.)

25 HEARING OFFICER GEFTER: Back on the

1 record. Applicant has further information for us
2 on the topic of visual resources.

3 MR. THOMPSON: Thank you, Ms. Gefter.
4 Applicant has been working at the behest of Tejon
5 Ranch to provide some screening on properties
6 under control by Tejon Ranch between Highway 5 and
7 the project site.

8 As this land is owned by Tejon, their
9 agreement is essential. However, what we would
10 propose is to submit tomorrow some language
11 obligating the applicant to submit to the CPM a
12 screening plan that we would propose.

13 And we think all of us, including the
14 Ranch, want to screen the facility from the
15 highway, and when that is final, we would propose
16 to submit that.

17 PRESIDING MEMBER LAURIE: Commissioner
18 Moore, did you have any comments?

19 COMMISSIONER MOORE: No. The only thing
20 I would say is that I was going to draw it on the
21 blackboard, but every time I go to the blackboard
22 Sam Wehn gets nervous, so I have to stay seated.

23 All I would say is keep in mind the
24 visual cone that you're dealing with, because the
25 likelihood of someone looking at a right angle

1 across the highway, unless they're stopped, or
2 unless they're just about to have an accident, is
3 low. Whereas, if there's a high angle cone of
4 some kind where it is visually apparent from the
5 highway.

6 So, if there are any resources that are
7 going to be put to this, first consideration ought
8 to be where you really make a difference, where it
9 really makes a difference to the motorists.

10 Second, the idea that this has to be
11 maintained, not only over its life, but forever,
12 because as any urban forester knows, you have to
13 replant things. They don't just live forever. So
14 there would have to be some sort of sinking fund,
15 or some annuity that was set aside to do this.
16 And also Caltrans would have to be involved in
17 terms of the maintenance because it would be
18 within the right-of-way; there's no way to get
19 outside that.

20 So I would want to just --

21 PRESIDING MEMBER LAURIE: Michal, let me
22 ask you about that. I don't know where Caltrans'
23 right-of-way goes.

24 COMMISSIONER MOORE: Typically about 100
25 feet out from the edge of the highway.

1 PRESIDING MEMBER LAURIE: Why would it
2 have to be within Caltrans' right-of-way?

3 COMMISSIONER MOORE: Well, unless you
4 cut a deal on someone else's land next to the
5 highway --

6 PRESIDING MEMBER LAURIE: Yeah, well,
7 that's what they're talking about.

8 COMMISSIONER MOORE: I know, but most of
9 that, I think they're going to find, is actively
10 farmed, and that probably the most efficacious
11 place to put it, I guess I'm just -- I'm trying to
12 jump ahead here to where the likely solution is
13 going to be found, and I bet it is closer -- it's
14 in the zone that's captured within the Caltrans'
15 right-of-way.

16 MR. THOMPSON: Mr. Commissioner, I think
17 that all of the land would be Tejon Ranch land.

18 COMMISSIONER MOORE: Okay.

19 MR. THOMPSON: And I think that makes it
20 a lot easier for us, and would satisfy Tejon's
21 requirements.

22 COMMISSIONER MOORE: Fine, I'm
23 satisfied. We'll wait for it to come out.

24 HEARING OFFICER GEFTER: Mr. Thompson,
25 you suggested that you would have that for us by

1 tomorrow?

2 MR. THOMPSON: Yes, unless I'm kicked by
3 Mr. Wehn here, we're going to write it tonight and
4 give a copy to staff early in the morning to see
5 if we can come to you with a joint approval on
6 some language.

7 HEARING OFFICER GEFTER: And this will
8 be a proposed condition under visual resources?

9 MR. THOMPSON: It would.

10 HEARING OFFICER GEFTER: Thank you. All
11 right, also on -- what's also pending is
12 transmission system engineering, and that was
13 pending some modification to the language of
14 condition PSE-1H.

15 MR. RATLIFF: That's right.

16 HEARING OFFICER GEFTER: And, Mr.
17 Ratliff, also before we begin you had circulated a
18 copy of the proposed language as part of an email
19 interchange between yourself and Mr. Mark Hesters.
20 Could you identify that document for the record as
21 exhibit 47, and describe it to us?

22 MR. RATLIFF: Yes, and the only reason
23 it's this document is because it's the only
24 document where the language is written down. It's
25 in an email to Mark Hesters from apparently

1 Steve Mauvis on September 15.

2 And the language is in the second
3 paragraph, and it's marked J, which I don't
4 understand, because I believe this would actually
5 be condition 1H.

6 So I think we should consider it to be
7 condition 1H, this is replacing that testimony.
8 It's a very simple statement, but this was the
9 statement, I think, was the product of a fairly,
10 perhaps a fairly elaborate negotiation between the
11 ISO and the applicant over what exactly was
12 intended.

13 And I think Mr. Wehn or Mr. Patch or Mr.
14 Thompson, I'm not sure which one, probably knows
15 more about that negotiation than I do. But I
16 think, as I understand it, the condition was to
17 address a very unusual circumstance when demand at
18 southern California is very low and there's reason
19 the ISO would want to have at least a partial
20 curtailment of generation at the facility.

21 COMMISSIONER MOORE: Can I, on that
22 point, Mr. Ratliff, can I ask Sam, or Mr. Patch,
23 the question what does a diminution of 25 percent
24 do to the power plant, itself? In other words,
25 can you ramp down to that without damaging the

1 turbines and/or how long does it take you, when
2 you receive an order, to do that from the ISO?
3 How long does it take to step down safely to that
4 level?

5 MR. WEHN: The ramp rates that are
6 typical, that we look for in load following, tend
7 to be 10 to 12 megawatts a minute.

8 If we wanted to drop load faster than
9 that we could certainly do that. So 25 megawatts
10 on a plant on the two-on-one is producing 500
11 becomes a very small percentage.

12 And while I can't give you an exact
13 time, not in dropping 25 megawatts of load off the
14 plant is done quickly.

15 COMMISSIONER MOORE: Okay, so 10 to 12
16 minutes, three minutes and you're back down after
17 the order comes. And does that hurt the turbines
18 at all to scale back that way?

19 MR. WEHN: No. The 10 to 12 minute is a
20 ramp-up rate --

21 COMMISSIONER MOORE: Oh, I'm sorry --

22 MR. WEHN: I suggest that being able to
23 drop, if you needed to with a call from ISO, since
24 ISO controls the dispatching of the plant, my
25 guess is we'd drop probably a minute.

1 And, no, the equipment is well capable
2 to handle that kind of up and down.

3 COMMISSIONER MOORE: And so no problems
4 with this kind of a condition?

5 MR. WEHN: No, sir.

6 PRESIDING MEMBER LAURIE: Mr. Ratliff,
7 why do you believe that it's necessary to attach
8 this language as a condition?

9 MR. RATLIFF: Well, this is actually
10 language that substitutes for the current
11 condition ESE-1H, which at the last, at the
12 prehearing conference I think Ms. Gefter asked
13 staff if this was a satisfactory condition.

14 I went back and talked with the staff
15 witness, Mr. Hesters, and he said --

16 PRESIDING MEMBER LAURIE: This is not a
17 condition that the Energy Commission can enforce,
18 correct?

19 MR. RATLIFF: I think it's probably a
20 condition that only the ISO could enforce, in
21 reality.

22 And I'm --

23 COMMISSIONER MOORE: Well, actually
24 wouldn't it take the form of, if we put this in as
25 a condition; then complying with the condition

1 would probably take the form of an agreement, side
2 agreement with the ISO, a protocol, if you will,
3 that would be on file with the ISO.

4 And literally, once we had enforced
5 setting up the protocol, it's as good as enforced.
6 It's just being done through another agency. But
7 they're under written, bound agreement to do that
8 if we make it a condition here.

9 I'll have to go seek out that protocol.

10 PRESIDING MEMBER LAURIE: I guess what
11 I'm asking is what kind of independent authority
12 does ISO have absent the forced agreement from us?

13 MR. RATLIFF: I don't know the answer to
14 that. And I think that is the question --

15 PRESIDING MEMBER LAURIE: I guess my
16 question is, is our imposition of a condition
17 redundant, given ISO's powers and authorities and
18 capabilities?

19 MR. RATLIFF: I wish I knew the answer
20 to that, too, but I don't.

21 MR. WEHN: If I may, there will be a
22 participation -- generator participation agreement
23 signed by us and Southern Cal Ed, which will
24 contain a lot of conditions that the ISO would
25 like us to abide by.

1 So it will be the rules of operating
2 within the ISO structure.

3 HEARING OFFICER GEFTER: Is that called
4 a generator special facilities agreement that
5 you're referring to, or is that a different
6 agreement?

7 MR. WEHN: I believe it's a different
8 agreement. It's a participation generation
9 agreement. It really specifies the rules that
10 we'll operate by.

11 HEARING OFFICER GEFTER: And what is the
12 agreement that they refer to in the condition
13 here, general special facilities agreement, GSFA?

14 MR. WEHN: Where do you see that?

15 HEARING OFFICER GEFTER: It's in the
16 proposed language for condition 1H, TSE condition
17 1H.

18 MR. WEHN: I'm not so sure that
19 agreement and the participation generation
20 agreement may not be the -- may be one and the
21 same document. But if I may make a phone call,
22 and I'll clarify that point.

23 HEARING OFFICER GEFTER: That would be
24 good. Thank you.

25 At this point I believe that the

1 proposed language change to condition 1H is still
2 pending. So we will again hold this open until we
3 can come to terms on the language of the
4 condition.

5 MR. THOMPSON: I think that the language
6 change that you have in front of you would also
7 change the sixth bullet on exhibit 37, page 6,
8 which is the ISO letter. And I think this is the
9 genesis of the staff material.

10 COMMISSIONER MOORE: You're saying
11 that's where Mark Hesters got his --

12 MR. THOMPSON: Precisely.

13 COMMISSIONER MOORE: -- this document?

14 HEARING OFFICER GEFTER: I'd ask the
15 parties to make the necessary phone calls to try
16 to get consistent agreement among Cal-ISO and the
17 applicant and Edison on this topic.

18 MR. RATLIFF: I think we may have done
19 that. My own thinking about this is similar to
20 Commissioner Moore's, which is it may not be
21 necessary but it doesn't hurt.

22 Absent the agreement, the Cal-ISO may
23 already have the authority to do this, or to
24 require this. With the agreement, it would give
25 the Cal-ISO seemingly a greater ability to enforce

1 this kind of a curtailment if they wanted to, if
2 they chose to.

3 I can't see why it would hurt to include
4 this, particularly given that the Cal-ISO has
5 requested it. And it seems, at worst, redundant.
6 And I can't see a reason not to go ahead and just
7 accept this condition, myself.

8 MR. THOMPSON: I agree, Mr. Ratliff. I
9 think that if we use the new language to replace
10 the last bullet on page 6 of the ISO letter, that
11 would flow through staff's conditions of
12 certification. And staff's conditions of
13 certification, as far as the applicant is
14 concerned, are easier to follow. It's in one
15 spot, and there's verification for us to follow,
16 which gives us greater guidance.

17 So I would actually endorse that.

18 HEARING OFFICER GEFTER: The other point
19 here, too, is that Mr. Micsa, the representative
20 from Cal-ISO who submitted the testimony, was
21 participating in the interchange here on exhibit
22 47, the email discussions.

23 MR. THOMPSON: Exactly.

24 HEARING OFFICER GEFTER: So he is
25 familiar with this proposed language.

1 MR. THOMPSON: Yes.

2 HEARING OFFICER GEFTER: So to
3 summarize, staff and applicant agree on the new
4 proposed language, and to include the new
5 paragraph I.

6 However, Mr. Wehn will contact Edison to
7 find out whether there's a different agreement
8 other than the one referred to in this section 8.
9 And tell us about that when you have a chance
10 before the end of tomorrow.

11 MR. THOMPSON: Recognizing that relying
12 on feedback from Edison may not be as easy as
13 feedback from someone under our control, we'll
14 try.

15 HEARING OFFICER GEFTER: All right. I
16 think we have housekeeping items, and then we can
17 close for today.

18 And the housekeeping items relate to
19 staff's role in today's presentation. As everyone
20 knows, it is the applicant's burden to establish
21 that the project will comply with all relevant
22 LORS.

23 The staff did file their final staff
24 assessment, as we indicated earlier. We've been
25 referring to it all throughout today's hearings.

1 We didn't take any testimony from staff, other
2 than referring to the final staff assessment and
3 the supplemental testimony filed by staff.

4 The final staff assessment, again, is
5 exhibit 35. And the supplemental testimony is
6 exhibit 36.

7 Tomorrow staff will have live witnesses
8 present. And we will be taking testimony from
9 staff's witnesses as well as applicant's
10 witnesses.

11 At this point staff has indicated that
12 they will move both exhibit 35 and 36 into the
13 record at the conclusion of tomorrow's testimony,
14 and that way we will have all of the testimony
15 moved in at the same time.

16 But for benefit of the record, I did
17 want to indicate that all of our references to the
18 FSA and to the supplemental testimony filed by
19 staff were already identified in our tentative
20 exhibit list.

21 Does staff have any further explanation
22 or clarification at this point?

23 MR. RATLIFF: I don't, no.

24 HEARING OFFICER GEFTER: Any questions
25 from the intervenors?

1 DR. UNGER: No.

2 MS. GRIFFIN: About what?

3 HEARING OFFICER GEFTER: If you have any
4 further questions about the procedure, tomorrow's
5 events, or anything else that you would like to
6 bring to our attention at this point?

7 MS. GRIFFIN: No, I have a comment.

8 HEARING OFFICER GEFTER: You have a
9 public comment? Please go forward now.

10 MS. GRIFFIN: Well, I'd like to state
11 that I never received the supplemental testimony
12 about the Kern County's landfills. And just
13 quickly looking over the life span information,
14 Arvin landfill goes from being a shortest
15 remaining operating life to one year. Bena goes
16 from in the old was 100 years; in the new is 33
17 years. Taft goes from 50 years to the new 145
18 years.

19 HEARING OFFICER GEFTER: This is your
20 comparison -- I'm sorry, you're comparing the old
21 and the new.

22 MS. GRIFFIN: Yeah, --

23 HEARING OFFICER GEFTER: What does the
24 old refer to?

25 MS. GRIFFIN: -- the old and new

1 information. But I still don't think they have it
2 quite right yet.

3 And I would like to emphasize again that
4 that \$29 a ton is a break-even cost. And just, I
5 don't know what can be done about it, but just as
6 sort of information to the people of Kern County,
7 are they going to have to be subsidizing some of
8 this construction, maintenance, closure, whatever
9 of all these power plants.

10 Thank you.

11 HEARING OFFICER GEFTER: Thank you. And
12 just for reference, the old information was the
13 PSA or the final staff assessment, and the new
14 information is what, the supplemental testimony,
15 is that what you're referring to?

16 MS. GRIFFIN: Yes.

17 HEARING OFFICER GEFTER: Thank you.

18 MS. GRIFFIN: Yes.

19 HEARING OFFICER GEFTER: With that, the
20 hearings for today are adjourned -- Mr. Thompson,
21 we can't leave without one final comment.

22 (Laughter.)

23 MR. THOMPSON: Is it the Committee's
24 desire to hear from Ms. Miller, the Enron gas
25 reliability witness who is flying out from Houston

1 tonight? We can put her on first thing in the
2 morning if that's your wish.

3 HEARING OFFICER GEFTER: I think we
4 should take the testimony from Ms. Miller first
5 thing, and then go on to the other witnesses that
6 we have scheduled.

7 How long do you anticipate her testimony
8 will take?

9 MR. THOMPSON: With the deep blue eyes
10 of Commissioner Laurie staring at me, I will keep
11 this very short.

12 PRESIDING MEMBER LAURIE: And your
13 purpose of the testimony, Mr. Thompson?

14 MR. THOMPSON: Applicant was asked about
15 gas reliability, and when we started getting into
16 available supplies off the pipeline it seemed like
17 the best thing to do to get someone in who really
18 knew something about it.

19 HEARING OFFICER GEFTER: So, we'll
20 schedule her for first thing 9:00 a.m. tomorrow
21 morning. And then after that we'll take testimony
22 on land use, and --

23 PRESIDING MEMBER LAURIE: We will have
24 to -- I've been advised that tomorrow we have to
25 clear out of here at exactly 5:00, is that

1 correct, somebody told me that? Okay.

2 We will finish the hearing tomorrow, so
3 that if it comes to be 5:00 and we are not as yet
4 finished, I'm advised that we will adjourn and
5 reconvene in the room that we had lunch in today.

6 But we'll have to give everybody an
7 opportunity to pack up and reset. But it is
8 certainly the Committee's goal to complete
9 testimony tomorrow. We have to be back, we have a
10 business meeting on Wednesday. So, we do have to
11 go home tomorrow night sometime.

12 HEARING OFFICER GEFTER: Also before we
13 close I did want to take care of exhibit 47, which
14 contains the new language for TSE condition 1H,
15 and ask staff whether you want to move that into
16 the record, exhibit 47?

17 MR. RATLIFF: Yes, I think we've already
18 previously described the exhibit, so we would move
19 that it be entered into the record.

20 HEARING OFFICER GEFTER: Any objection
21 to exhibit 47?

22 MR. THOMPSON: None.

23 HEARING OFFICER GEFTER: Intervenors?

24 DR. UNGER: No.

25 HEARING OFFICER GEFTER: Exhibit 47 is

1 now moved into the record.

2 And with that, today's hearing is
3 closed.

4 (Whereupon, at 3:45 p.m., the hearing
5 was adjourned, to reconvene at 9:00
6 a.m., Tuesday, September 19, 2000, at
7 this same location.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
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Energy Commission Hearing; that it was thereafter
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